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FISCAL YEAR 1985 BUDGET REVIEW

HEARINGS

BEFORE THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

SECOND SESSION

FEBRUARY 23, 27; AND MARCH 2, 1984

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CONTENTS

FEBRUARY 23, 1984

NUCLEAR REGULATORY COMMISSION

OPENING STATEMENTS

Page
Lautenberg, Hon. Frank R., U.S. Senator from the State of New Jersey ... 2
Simpson, Hon. Alan K., U.S. Senator from the State of Wyoming ... 1

WITNESSES

Asselstine, James K., Commissioner, U.S. Nuclear Regulatory Commission ... 8
    Written statement ... 88
Bernthal, Fred, Commissioner, Nuclear Regulatory Commission ... 12
Gilinsky, Victor, Commissioner, Nuclear Regulatory Commission ... 6
    Written statement ... 71
    Letter to Senator Simpson ... 83
Palladino, Nunzio J., Chairman, Nuclear Regulatory Commission, accompanied by William J. Dircks, Executive Director for Operations; Harold R. Denton, Director, Office of Nuclear Reactor Regulation; Richard DeYoung, Director, Office of Inspection and Enforcement; John G. Davis, Director, Office of Nuclear Material Safety and Safeguards; and Denwood Ross, Jr., Director, Office of Nuclear Regulatory Research ... 3
    Written statement ... 49
Roberts, Thomas M., Commissioner, Nuclear Regulatory Commission ... 11
    Written statement ... 95

ADDITIONAL MATERIAL

New York Times, February 23, 1984, article from ... 17
Responses to written questions:
    Prehearing ... 104
    Posthearing ... 193
Statements:
    Biden, Hon. Joseph, U.S. Senator from the State of Delaware ... 101
    Walker, Richard F., president, Public Service Co. of Colorado ... 173

FEBRUARY 27, 1984 (p. 385)

CORPS OF ENGINEERS

Stafford, Hon. Robert T., U.S. Senator from the State of Vermont, opening statement of ... 385

WITNESSES

Gianelli, William R., Assistant Secretary of the Army (Civil Works), accompanied by Maj. Gen. John F. Wall, director of Civil Works and Bory Steinberg, Chief of Programs ... 386
    Written statement ... 413

ADDITIONAL MATERIAL

Page
Responses to written questions:
  Prehearing 426
  Posthearing 481

MARCH 2, 1984 (p. 515)

ENVIRONMENTAL PROTECTION AGENCY

OPENING STATEMENTS

Abdnor, Hon. James, U.S. Senator from the State of South Dakota 520
Baucus, Hon. Max, U.S. Senator from the State of Montana 525
Lautenberg, Hon. Frank R., U.S. Senator from the State of New Jersey 518
Moynihan, Hon. Daniel Patrick, U.S. Senator from the State of New York 521
Randolph, Hon. Jennings, U.S. Senator from the State of West Virginia 516
Stafford, Hon. Robert T., U.S. Senator from the State of Vermont 515

WITNESS

Ruckelshaus, Hon. William D., Administrator, U.S. Environmental Protection Agency 526

ADDITIONAL MATERIAL

American Society for Microbiology, statement of 654
Responses to additional questions from:
  Senator Stafford 550
  Senator Chafee 613
  Senator Durenberger 615
  Senator Moynihan 622
  Senator Baucus 626
  Senator Lautenberg 627

STATEMENTS FROM AGENCIES NOT APPEARING AT THE HEARINGS

Appalachian Regional Commission 658
Council on Environmental Quality 664
Economic Development Administration 684
Federal Emergency Management Agency 732
Federal Highway Administration 739
Fish and Wildlife Service 744
General Services Administration 707
National Park Service, John F. Kennedy Center 790
Tennessee Valley Authority 801

FISCAL YEAR 1985 BUDGET REVIEW

THURSDAY, FEBRUARY 23, 1984

U.S. Senate,
Committee on Environment and Public Works,
Washington, D.C.

The subcommittee met at 9:30 a.m., in room SD-406, Dirksen Senate Office Building, Hon. Alan K. Simpson (chairman of the subcommittee) presiding.

Present: Senators Simpson, Domenici, Heinz, Specter, Mitchell, Lautenberg, and Biden.

NUCLEAR REGULATORY COMMISSION

OPENING STATEMENT OF HON. ALAN K. SIMPSON, U.S. SENATOR FROM THE STATE OF WYOMING

Senator Simpson. Good morning.

We meet today to hear from members of the Nuclear Regulatory Commission on the budget request for fiscal year 1985. The purpose, of course, is to gather information in order to fulfill our responsibilities under the Congressional Budget Act of 1974 and forward our recommendation to the Senate Budget Committee.

Last year we had a 2-year authorization covering fiscal years 1984 and 1985. The current fiscal year 1985 level in that bill was $460 million and since that bill is now pending before the full committee the hearing will provide, I hope, a useful opportunity for the subcommittee to update the hearing record.

Indeed the budget request we have before us for fiscal year 1985 includes a number of initiatives of very particular interest to the members of the subcommittee and to the full committee. We also take a very active interest in the research activities conducted by the Commission and I have a hunch that the significant reductions that the Commission has proposed in the research budget for the next fiscal year will be something that we want to discuss. I usually see an increased willingness to turn to the research budget when it comes time to make cuts, particularly since the research program is such a very fundamental part of the mission. I have seen that in the past and I will be interested in hearing the views of the Commission on this subject.

As you might imagine, it might be useful to revisit the subject of uranium mill tailing regulation now that the Commission is in the process of conforming its regulations to the recently promulgated EPA standards. That, too, is an issue of particular concern to the subcommittee members and there are some remarkable kinks in that process that I think we need to address.

There is a great deal of interest in the Commission's efforts regarding the restart of the TMI-1 reactor. In fact, I have invited the Senators from Pennsylvania and New Jersey to join us here today and once we finish up our budget questions I think it would be most useful to spend some time exploring the status of the TMI-1 restart. In that regard I would note that Senator Lautenberg, who has a great personal interest in this issue, has recently joined this committee and I can tell you I very much welcome his active participation; He is proving to be a very active Member of the U.S. Senate, and it is nice to have him come forward in this effort.

Finally, I do want to explore the issues of emergency planning and the hostage situation which confronts us with one and perhaps a future of several other operating entities and perhaps touch a bit on temporary operating licensing. I will be particularly interested in what steps have been taken by the Commission in each of those areas over the past year and what action, if any, Congress might wish to consider in either or both of those areas.

So we are particularly pleased to have with us today all of the Commissioners as well as a number of the NRC senior staff. Before I welcome and ask you to go forward, Chairman Palladino, if we have any brief remarks from our colleague from New Jersey it would be appropriate.

Frank, do you want to comment?

OPENING STATEMENT OF HON. FRANK R. LAUTENBERG, U.S. SENATOR FROM THE STATE OF NEW JERSEY

Senator **Lautenberg**. Just very briefly, thank you, Mr. Chairman. I am pleased to join you here this morning. I am interested in hearing from the Commissioners firsthand about issues that involve nuclear regulation and issues regarding, of course, the budget and those issues that concern me and the State of New Jersey very specifically.

I am particularly interested in the matter of Three Mile Island. It is close to 5 years since the accident TMI-2 and it is almost as long since the shutdown of TMI-1. I would like to know where we stand with respect to the cleanup of TMI-2. The process should proceed as quickly and as safely as it can but has it? Do we know enough now to accomplish the task and what have we learned so far.

Coming to TMI-1, will the Commission decide to permit restart or will it be shut down forever? New Jersey consumers have a 25 percent stake in Three Mile Island. They pay $14 million a year in replacement power but safety should not be sacrificed at any price. The State must be assured. There are still issues of management competence. I know some of you have a specific interest in that area and I would like to know when they will be decided.

Mr. Chairman, I welcome the opportunity to explore these and other questions with the subcommittee.

Senator **Simpson**. Thank you very much, Senator Lautenberg.

Chairman Palladino, I welcome you to this annual event. You might just introduce those who accompany you other than the Commission members and then please proceed with your statement however you wish.

STATEMENT OF NUNZIO J. PALLADINO, CHAIRMAN, NUCLEAR REGULATORY COMMISSION, ACCOMPANIED BY COMMISSIONERS VICTOR GILINSKY, THOMAS M. ROBERTS, JAMES K. ASSELSTINE, AND FRED BERNTHAL; ALSO ACCOMPANIED BY WILLIAM J. DIRCKS, EXECUTIVE DIRECTOR FOR OPERATIONS; HAROLD R. DENTON, DIRECTOR, OFFICE OF NUCLEAR REACTOR REGULATION; RICHARD DeYOUNG, DIRECTOR, OFFICE OF INSPECTION AND ENFORCEMENT; JOHN G. DAVIS, DIRECTOR, OFFICE OF NUCLEAR MATERIAL SAFETY AND SAFEGUARDS; AND DENWOOD ROSS, JR., DIRECTOR, OFFICE OF NUCLEAR REGULATORY RESEARCH

Chairman PALLADINO. Thank you, Mr. Chairman.

It is a pleasure to be back here to discuss NRC's budget request. With me, as you indicated, are the other members of the Commission—Victor Gilinsky, Thomas Roberts, James Asselstine and Fred Bernthal. With us also is the Executive Director for Operations, William Dircks, and the Directors of the principal offices of the Commission. In order to permit more time for responding to questions, I have shortened my oral presentation but, with your permission, I would like to have the entire testimony entered into the record.

Senator SIMPSON. Without objection, it is so ordered.

Chairman PALLADINO. First, I would like to provide the subcommittee with an overview of our budget request. In fiscal year 1984 we currently have an operating budget of $478 million—$465.8 million in new authority and $12.2 million in carryover funds. Favorable action on a pay raise supplemental of $2.1 million would increase this to $480.1 million. Our request for fiscal year 1985 is for $468.2 million, a small decrease from the current year. Our fiscal year 1985 request for personnel resources is 75 full-time equivalents above our fiscal year 1984 ceiling.

Both in actual dollars and in constant dollars, the research budget has declined since fiscal year 1981. We have cut our research budget as far as we can and still carry out needed work. A well-focused and effective research program must be maintained because it provides the technical basis on which to improve our licensing and inspection programs and to make regulatory decisions.

Our budget this year includes a modest increase in staff for fiscal year 1985 because we believe that there is little room left for further internal reallocations. The increase of 75 full-time equivalents for fiscal year 1985 is needed to help deal with our stepped up inspection efforts and our increased responsibilities under the Nuclear Waste Policy Act.

While we have been able to reallocate some staff from licensing efforts, this option is limited because the licensing load has not dropped as fast as one might have expected based on the utilities' start-up schedules. Plants troubled with construction or start-up problems make it necessary to stretch out the licensing process. The additional NRC analyses required to resolve these problems add to the licensing workload.

NRC's programs are not of a discretionary nature. They are critical to our regulatory mission. Our capacity to answer technical questions, to resolve expeditiously a myriad of engineering issues, and to assure proper completion and safe operation of nuclear plants is severely strained. Although we believe our progress in improving the regulatory program is enhancing safety, incidents continue to occur in nuclear power generation. It is essential that adequate funding and staff be provided to enable NRC to discharge fully its responsibility to insure that the public health and safety is adequately protected.

Mr. Chairman, I will now touch on several topics of special interest to the NRC. These are licensing reform, temporary operating licenses, emergency preparedness, TMI-2 cleanup, and the continuing need for consolidation, and my remarks on each will be brief.

Enactment of a licensing reform bill along the lines of that proposed last year by the NRC could contribute much needed stability to the nuclear licensing process. While licensing reform is by no means a cure-all for the problems confronting nuclear power in the United States, it would be useful to establish now, by law, a stable framework within which future nuclear industry planning can take place.

Several features of the NRC bill are key to meaningful licensing reform. These include standardized design, early site review, and authorization of a combined construction permit and operating license. Site and standardized design approvals should be valid for approximately 10 years, with renewals from 5 to 10 years at the discretion of the Commission. With respect to a combined construction permit and operating license, a second hearing prior to commencement of operation should be limited to issues that were not and could not have been considered and decided at earlier stages.

Let me turn next to a few comments on the temporary operating license. Although no applicant requested a temporary operating license for a nuclear power plant prior to December 31, 1983, when NRC's authority to issue such a license expired, the potential for licensing delays, which led to the authority provided in Public Law 97-415, continues to exist today.

The Commission believes that it would be desirable to extend its authority to issue temporary operating licenses. Our recommendation is made with the clear understanding that such authority would be exercised sparingly and only when it is clearly demonstrated to the Commission that operation would involve no undue risk to the public health and safety.

In the Commission's view, this authority is an important tool for dealing with situations that might arise, where construction gets ahead of our schedule. I should note Commissioners Gilinsky and Asselstine do not believe there is a need to extend the temporary operating license provision.

The third topic of special interest is emergency preparedness. Following the 1979 accident at Three Mile Island, the NRC initiated a comprehensive program for upgrading emergency preparedness at all commercial nuclear powerplants. The current rules on emergency planning have encouraged the utilities to work more closely than ever before with State and local emergency response organizations, resulting in a much higher state of emergency preparedness than that which previously existed. Interestingly, the emergency preparedness progress has also raised new questions for offsite authorities as well as resolving old ones. Two important new questions are whether State or local governments have an obligation to participate in emergency planning and, in the absence of State or local government participation, whether a licensee has the legal authority to carry out proposed actions that normally would be handled by State or local governments in an actual emergency.

In principle, the Commission believes that failure of a State or local government to plan, or to implement plans, should trigger a requirement that other alternatives for protection of the public be considered. It is therefore important for the subcommittee to preserve the language in last year's authorization bill that permits the Commission to issue an operating license for a nuclear power reactor, if it determines that there exists a State, local or utility plan which provides reasonable assurance that public health and safety is not endangered by operation of the facility.

It is also important for the subcommittee to work with FEMA and NRC to come up with a solution to the problem of legal authority in the absence of State or local government participation. A possible approach would be to make available Federal resources if a Governor requested them.

The fourth issue for special interest is the cleanup of TMI-2. At TMI-2 much of the radioactivity that was dispersed within the plant during the accident has been immobilized, packaged, and shipped offsite for ultimate disposition. However, the most difficult task, defueling, has not yet begun.

The utility estimates that during calendar year 1984 only $75 million will be available for cleanup activities. Although the Edison Electric Institute has sought voluntary pledges from member utility companies to contribute to TMI-2 cleanup funding, pledges have not yet reached the $100 million level required before any disbursements can be made. The Internal Revenue Service recently ruled that domestic utilities will be permitted to write off contributions toward the TMI-2 cleanup as a business expense. This ruling should encourage additional contributions. In addition, Japanese power companies have tentatively agreed to contribute $18 million to research and development aspects of the cleanup effort.

These recent events hold some promise of help for the utility's efforts to secure committed funding for future cleanup activities. However, they do not provide much confidence that the approximately $600 million effort still remaining will be adequately funded or expeditiously completed. Given the existing funding uncertainties and the formidable technical problems that the utility must overcome, the Commission has serious reservations about GPU meeting their current schedule for completing fuel removal in 1986.

While we believe that adequate protection of public health and safety is currently being maintained, the Commission is concerned about the slow pace of the cleanup, primarily because of the increasing potential for unforeseen problems arising. The Commission believes it may be time for the Congress and the executive branch to consider new approaches. I personally believe that an approach similar to that used at the West Valley site should be considered. In the meantime, within NRC's legal authority, the Commission and its staff will continue to place a high priority on TMI-

2 and monitor closely the licensee's activities in order to help bring about a safe and expeditious cleanup.

The final topic of special interest that I have listed concerns consolidation of the NRC. On the matter of consolidation, one vexing problem for the Commission is conducting business from 11 widely scattered locations in Washington, Rockville, Silver Spring, and Bethesda. Because of facility inadequacies and high maintenance costs, we have been asked by the General Services Administration to move the Commissioners' and staff offices out of the Matomic Building in downtown Washington when the lease runs out next year. Some other buildings we now occupy in suburban Maryland have similar problems, and GSA staff have indicated that they will be looking for alternatives to our current configuration, particularly for two buildings whose leases expire in 1986. However, GSA has not told us where we could relocate and how such relocations could help fulfill our needs to consolidate. We have been working closely with them but results have not yet conceived. We urgently need to consolidate but we have no building in which to do so.

The subcommittee's continued support is urgently needed to get this matter resolved as soon as possible. We may also need your help later if interests are brought to bear that could delay or prevent consolidation.

Mr. Chairman, this completes my oral presentation. We would be pleased to answer any questions that you and other committee members may have.

Senator SIMPSON. Thank you very much, Mr. Chairman.

Before I recognize any other member of the Commission that may have a comment, brief comment of course, let me acknowledge an interesting fact. We have Commissioner Fred Bernthal coming on and beginning his term with the Commission and Victor Gilinsky with his term ending and, I want to say that I very much enjoyed working with both of you and I will look forward to that in the future in whatever capacity you are involved. Ed Bernthal was a recognized member of this staff when I came on the subcommittee and I appreciated his good services and counsel to me in those times. Victor Gilinsky, a very thoughtful person with some very provocative things and always willing to share those, and I have appreciated that.

Commissioner GILINSKY. Thank you, Mr. Chairman.

Senator SIMPSON. So if any other Commissioner has a statement, we do have a bit of a time problem because we have certain of our colleagues who will be coming in and out for questions and we want to get to them. If I could ask you to limit your remarks to approximately 5 minutes, and we will certainly enter the full remarks in the record.

Commissioner GILINSKY. I have a statement which I would like to submit for the record, and just touch on the highlights of it here.

Senator SIMPSON. Very well.

STATEMENT OF VICTOR GILINSKY, COMMISSIONER, NUCLEAR REGULATORY COMMISSION

Commissioner GILINSKY. First is the need to beef up the NRC's ability to insure the safety of operating reactors That is fast becoming our principal job as opposed to dealing with applications for a construction permit. In part this shift to regulating operating reactors involves money, and I suggest a further shift of money from research to inspection. But equally important is getting more persons at all levels of the organization with operating experience in industry. We really cannot regulate the industry properly without this.

An example of the sort of problem that was overlooked for lack of familiarity with operations is the situation that now faces us in a number of plants. It turns out that some of these do not have a single operator, out of a crew of 30 or 40, who has ever operated a commercial nuclear powerplant before. This is a situation which should never have been allowed to develop.

I also think the agency needs to improve its ability to investigate mishaps at nuclear plants and, especially, to evaluate its own performance and the need for improvement.

I suggest the creation of an autonomous safety board for this role. This might be a new assignment for a reconstituted advisory committee—the Advisory Committee for Reactor Safeguards that currently exists.

My second point concerns hearings. Something needs to be done, both to simplify the hearings and to reduce the overly legalistic cast they impose on the Commission's decisionmaking. For these reasons I urge strongly that the NRC staff be taken out of the hearing as a party seeking a particular result. This would, among other things; free up communications between the Commission and the staff. It would also improve appearances.

I also suggest that the Commission take direct responsibility for appeals from licensing board decisions, thus eliminating a level of adjudication.

My final point concerns the functioning of the Commission itself. It is not doing very well as a decisionmaking body. It is, among other things, more removed from the staff and less well informed than it has ever been.

In my statement I mention some of the problems and suggest some improvements. I would like to draw your attention to something I didn't mention in the statement. That is, for the first time, we have a majority on the Commission that does not believe in having a Commission at all. Three Commissioners testified in a recent hearing that they would prefer to have an executive agency. Now I am not going to argue the merits of that position, but it should be evident that it is hard to make the Commission work if most of its members don't think it should exist at all. It seems to me that this is something that the committee will want to think about because it oversees both the Commission's operations and the selection of its members.

In conclusion, Mr. Chairman, as you pointed out, this is going to be my last appearance before the committee, unless you, have more hearings between now and the end of June. I would like to say it has been a great pleasure to work with you with Senator Hart as the chairman before you, and with other members of the subcommittee.

Thank you very much, Senator.

Senator SIMPSON. You have provided some very interesting and provocative remarks, I will read this material because I, too, have some serious thoughts about the aspect of a collegial body which is not a collegial body that can't seem to operate as one because of the overtechnical interpretation of sunshine laws or whatever it is but the American public I think should be able to perceive that you either have a collegial body that sits down and talks about things or if you don't, then go to some other system. That is the way this chairman will be getting into some things a little later in the year because, as you say, if three of the five of you think that a single administrator is perhaps the way to go, then from what I know in visiting with all of you and other persons in the NRC, if you have such a narrow definition of how you even sit down and talk about things and your counsel are leading you into paths where you just sit mute in your offices, then surely that can't be good for this country and we will pursue that a little later.

Well, James, do you have anything?

STATEMENT OF JAMES K. ASSELSTINE, COMMISSIONER, U.S. NUCLEAR REGULATORY COMMISSION

Commissioner ASSELSTINE. Mr. Chairman, I do have an additional statement that I would like to submit for the record. Perhaps I can just highlight a couple of points in my statement very briefly for you. I touch basically on four topics. First is the need to extend the Commission's authority to issue temporary operating licenses. As you will recall, I originally supported limited extension of the temporary operating license provision through the end of this year. I now have concluded that there is not a need to extend the temporary operating license provision and, moreover, that there are substantial disadvantages to extending that authority.

I have three basic reasons for believing that the authority should not be extended. First, I don't believe there is a demonstrated need for extending the authority. We cannot point to any cases in which we expect a plant to be delayed due to the licensing and hearing process beyond the completion of the plant construction. Moreover, I think if you look back at the history of utility construction completion estimates on which the original TOL authority was based, those estimates have turned out to be extremely unrealistic.

Second, I think an extension of the authority misperceives the original purpose of the temporary operating license provision. That purpose was always intended to be merely an interim measure until some more effective long-term measures could be taken to minimize the potential for unnecessary licensing delays, delays in the hearings I think steps have been taken by the Commission both in terms of reallocating staff resources for licensing reviews and in terms of providing stronger management of the hearings themselves to minimize the potential for any unnecessary hearing delays in the future.

Finally, I think that the recent decision by our licensing board in the Byron case serves as a good example of the disadvantages of extending the temporary operating licensing provision. Byron was one of the cases mentioned last year as a potential candidate for a temporary operating license. If that temporary operating license had been issued for that plant, the plant would have begun operation at a time prior to the board deciding that there was a significant issue still outstanding that prevented the issuance of a full power operating license. I think the potential for issuance of a temporary operating license and the initiation of the operation of a plant with a significant unresolved safety issue still outstanding weighs against extending temporary licensing authority.

The second point that I wanted to mention, Mr. Chairman, is the Commission's review of the NRC staff's determination of that no significant hazards considerations pertaining to steam generator repairs at TMI Unit 1. Unfortunately, the Commission now is deadlocked on whether the staff's action in that case is appropriate or inappropriate. Two of us believe that the staff's action is not appropriate, it is not consistent with the statute or its legislative history. Two Commissioners believe it is appropriate. The fifth Commissioner does not believe a decision is necessary at this time.

I think given the fact that the Commission is deadlocked on this issue and given the fact that the staff is proceeding with its interpretation of the provision in other cases there might well be a benefit in the committee considering, perhaps as part of the action on the NRC authorization bill, providing some additional clarification on what the Congress intended the no significant hazards consideration determination to be. Since the question essentially is, whether the staff is correctly interpreting the statute and the congressional intent in enacting the statute, I think that is an item which you might well want to consider addressing.

The third item that I wanted to touch on, Mr. Chairman, is nuclear powerplant licensing reform. As you know, both the Commission and the Department of Energy submitted legislative proposals last year. I think there are basically two elements of those bills. One element includes provisions that are directly related to encouraging the greater use of standardization. I think some of the recent cases that the Commission has been looking at—including the St. Lucie II plant in Florida and the Palo Verde plant in Arizona—continue to demonstrate that there are substantial benefits to be gained from standardization.

Also, there are other provisions in the legislation that have proved to be controversial and are less directly related to encouraging standardization. I would suggest that the committee perhaps consider a more limited legislative proposal focusing on those elements that are directly related to standardization and on which it appears there is a consensus in favor.

The final element that I would mention very briefly, Mr. Chairman, is the final point that Commissioner Gilinsky raised. That is whether we should change from a collegial Commission to a single administrator and whether, as a majority of the Commissioners recommended, if that is not done, the powers of the Chairman and the executive director for operations be strengthened. My own view is that there are substantial benefits to having the complex, controversial issues involved in nuclear regulations debated, aired, and considered by a collegial body with a range of perspectives and experience.

My own view is that the reorganization plan correctly allocated responsibilities. It recognizes that in emergency situations you want one person in charge, but, in terms of addressing the broader policy issues and perspectives, the collegial form is useful. I have some serious reservations about extending further the powers of the Chairman and the executive director for operations. Without belaboring the point here, I think the practical effect of that would be in effect to convert the agency to a single administrator without taking that major step.

Those are the principal points that I wanted to make, Mr. Chairman. As I said, you have my statement.

Senator **Simpson**. I thank you very much.

Indeed it is a curious thing to hear this response about a single administrator and we will have to sort through that. This comes from one who was responsible for sunshine laws while I was a member of the State legislature and believe in them deeply but if they have you in a position where you cannot even walk down the hall and talk to each other without going through a ritual, then I think the people are being misled. The public perception is that you visit and talk about things and kick things around, and that is not happening in this Commission. If it is not happening, then let's revise the sunshine laws and if everygody goes into a fit on that, and they would, then let's go back to a single administrator where at least he can walk down the hall and walk in doors and talk to people without this absurd thing that goes on with you now with regard to a terribly restricted interpretation that was never the congressional intent, at least with this agency.

Chairman **Palladino**. Mr. Chairman, I think I will correct one possible misinterpretation. We can walk down the hall and talk to each other but one at a time.

Senator **Simpson**. I see, one at a time. You can do it one at a time.

Commissioner **Gilinsky**. Two at a time.

Senator **Simpson**. If one-third of you is there at the time, that is evil.

Commissioner **Gilinsky**. Yes.

Senator **Simpson**. I see. That's the ordinary.

Commissioner **Asselstine**. Mr. Chairman, if I could just offer one more comment on the Sunshine Act, on what restriction it imposes on us. We are permitted now to discuss in pairs issues in private.

Senator **Simpson**. In pairs in private. Who made that decision?

Commissioner **Asselstine**. You cannot have more than a majority of the Commission together, then it constitutes a meeting and then it has to be held as a formal meeting. But, the only real restriction is that we cannot meet in private. The Sunshine Act permits us to meet in public just as we are doing here today and discuss anything we want in public. It also allows us to close the meeting if it fits within some exemptions of the Act. I am not so sure that having to meet in public imposes all that much of a restriction on the Commission. Some of my colleagues differ on that point. They feel much more inhibited about discussing matters in public. But, the only restriction is that we cannot meet in private or in secret, it has to be in a public meeting and we have to discuss matters in public.

Senator **Simpson**. Well, the U.S. Senate is a collegial body and admittedly comes up short at times but if we didn't have the opportunity to visit privately with our colleagues it would be in a much more wretched mess than it is at the present time and that is very hard for me to believe and I really won't believe that until I see a lot of information that shows me that I can be changed on that.

I wish that Senator Mitchell had been here when we talked about temporary licensing authority but he is here now and it is a pleasure always to work with him.

Did you have any comments?

Senator MITCHELL. Mr. Chairman, I apologize to the Chairman and the other members who have spoken for not being here earlier. The Finance Committee is dealing with the budget deficit reduction proposal and I will not be able to stay too long. I have a substantial number of questions which I will submit in writing and when the other Commissioners complete their remarks I will ask as many questions as I can while I am here.

Senator SIMPSON. I will give you an opportunity.

Commissioner Bernthal and Commissioner Roberts, would you please make any comments you wish to make.

STATEMENT OF THOMAS M. ROBERTS, COMMISSIONER, NUCLEAR REGULATORY COMMISSION

Commissioner ROBERTS. I have remarks I would like to submit for the record. In the interest of time I will not make any remarks on topics or uranium mill tailings or emergency preparedness, backfitting. I would like to comment on Commissioner Gilinsky's and Commissioner Asselstine's observations on the collegial body versus the single administrator. I will also have comments on the temporary operating licensing and also the significant hazards consideration as it relates to TMI in general.

I have no further remarks and I will submit it for the record.

Senator SIMPSON. How do you feel about the aspect of a single administrator versus the collegial body?

Commissioner ROBERTS. Anybody that has ever looked at this august body has come to the conclusion it should have a single strong administrator. This is no way to conduct our business.

Now I strongly support the elimination of the Commission. Commissioner Gilinsky characterized it like it would become, I think he said, an arm of the executive branch. That is nonsense. It would be an independent regulating body with a single strong administrator. It does not have to be an extension or an arm of the executive branch of the Government. It obviously answers to the Congress, at least you control the purse strings. Certainly there should be a single strong administrator and you are absolutely correct when you say we do not function properly as a five person collegial body, it does not work. Victor is right in that sense, we don't communicate with each other. We do not protect the public health and safety in the way we presently function. I do not detract that statement.

Senator SIMPSON. Commissioner Bernthal.

STATEMENT OF FRED BERNTHAL, COMMISSIONER, NUCLEAR REGULATORY COMMISSION

Commissioner **Bernthal**. Mr. Chairman, I would like to make just a comment or two on general matters and also to respond for a moment to some of my colleagues' comments. I would like to say it is a pleasure to be in this room again and it is interesting to see that it is possible to look at the other end of the room for a change.

First of all let me just set the record straight on one point. It is always slightly embarrassing to have to say what I meant to say but I know precisely what I said in the hearing over on the House side. It has been referenced in one or two places, indicating the majority of the Commission support the single administrator. That is not the case. My comment at that time, as Tom will recall, is that I wondered if you counted the votes lately.

I do not support at this point throwing out the concept of a Commission. What I would like to comment on, however, is Commissioner Gilinsky's suggestion that it be a three member Commission, and for the very reasons that we have gone into for a moment or two here today it seems to me clear, that is not the way to go. If you go to a single administrator, then you change the very nature and face of the decision process and possibly change it for the better.

If you have a three member Commission, then in fact you cannot talk to each other except in a public meeting and I would just point out that there has been recently at least one court case that was lost on that very issue. A three member Commission means that two people cannot talk about any subject that is before the Commission except in a public meeting, so I just think that that is an unworkable option.

I would also like to comment on Commissioner Gilinsky's suggestion that something needs to be done about the status of the staff in respect to our adjudicatory proceedings. Although we cannot comment in any detail on the *Byron* case here as you know, I think Byron when all of the facts are in will stand as a good example of why we need to reconsider the status of the NRC staff as parties to adjudicatory proceedings and I support the suggestion of Commissioner Gilinsky that we look at that question very carefully.

I cannot support the suggestion that research money be further shifted into operations. There may be no question, and I suspect there is little question, that we may need further funding to support our operation programs and our operation safety responsibilities but crippling the safety research program is not the way to achieve that objective and I do not approve in fact of the trend in the budget we have seen over the last 2 or 3 years in that respect.

Let me also just make one or two comments in respect to Commissioner Asselstine's statement. I continue to believe that the extension of the temporary operating license authority is a worthwhile insurance for the Commission to have. You never need insurance until you need it, if I can perhaps lapse into a Yogi Berraism here, and I doubt that the Congress at any point would want to have to promulgate an act of Congress should we get in the situation where the Commission in its judgment finds that a plant is otherwise ready to operate but because of our procedural constraints cannot begin operation.

I very much support the concept that perhaps if we cannot agree, and it is very possible we cannot agree, on an extensive agenda for regulatory reform that we should pick off those issues which there seems to be clear agreement on and deal with those quickly. Standardized plant design is one very good example, as is early site selection. There are a number of issues that I think there is little disagreement on and I would urge the committee to consider moving ahead quickly on those even if we cannot resolve all of the other issues immediately.

I would also urge that the committee do consider the Sholly amendment and interpretation of that amendment. As Commissioner Asselstine has pointed out, I have so far chosen not to cast my vote on the issue of no significant hazards considerations on the TMI-1 steam generator licensing amendment question. I simply have not cast that vote because I don't think we should make it a practice to render unnecessary decisions. A Commission decision on that issue at this point would have no practical effect whatsoever because we have not resolved the other issues on TMI-1 currently before us. But back to the point, I would urge this committee to consider the interpretation of the Sholly amendment or I suspect that the courts will ultimately resolve what the intent of Congress was.

Thank you, Mr. Chairman.

Senator **Simpson**. Thank you very much.

Senator Mitchell, if you have any questions at this time, you might go forward.

Let me just say publicly how much I have enjoyed working with you in this new role of increased responsibility for you on this subcommittee caused by exigencies that were very real, my good friend from Colorado, and so I do appreciate it. I appreciate particularly your presenting the licensing reform bill that we can work on and see where we go and appreciate that fine offer of your view of that issue. I like that. Thank you.

Senator **Mitchell**. Thank you, Mr. Chairman. The feeling is mutual.

As I said, I have a number of questions which I will submit in writing to each of the Commissioners but both because I have to leave and I don't want to impose too much on your courtesy, Mr. Chairman, I will limit my questions to two areas.

Mr. Chairman, in your remarks you commented on emergency preparedness. I would like to ask you and each of the Commissioners to comment briefly on whether you favor some form of legislation to provide for a Federal response in the circumstance such as appears to exist at Shoreham where State or local government refuses to participate. Your comments appear to be generally in that way, Mr. Chairman, and I would like to have you expand on that and any other members of the Commission may comment as well.

Chairman **Palladino**. Senator Mitchell, I will go first.

We really don't have a Commission position, I believe, on whether or not there ought to be Federal help but I, speaking for myself, would heartily endorse some provision that there could be Federal help when needed particularly under circumstances when the Governor of a State would ask for it. I think the situation as it now exists, as pointed out in my testimony, raises two questions, one the extent to which State and local governments have an obligation to participate in emergency preparedness and the other is the question of legal authority of utilities to develop a plan and want to implement it and exercise it and I think addressing those issues, particularly the second one, would be something that I think the subcommittee might want to consider.

Senator MITCHELL. Well, we are indeed considering that, Senator Simpson and I have met and discussed that.

Senator SIMPSON. Secretly.

Senator MITCHELL. We will be talking about the possibility of legislation that will provide the possibility of some sort of last resort Federal authority to deal with that situation and that is what I wanted to get your comment on. Perhaps the other Commissioners could comment as well.

Mr. Gilinsky.

Commissioner GILINSKY. Well, you have to have, Senator Mitchell, a State and local participation—let me put it State or local participation in emergency responses. Ideally both, one can imagine one compensating for the lack of the other. I can't envision it working with the Federal Government stepping in. You are talking about police and other services that are simply not provided by the Federal Government. So, if it can be made to work, fine. I, however, don't see that as a realistic possibility.

Senator MITCHELL. Mr. Asselstine.

Commissioner ASSELSTINE. Senator Mitchell, I have three concerns about a provision to give the Federal Government that responsibility. I guess the first question I have is, is there a problem yet? Shoreham is the case that people point to and the fact of the matter is that the issue now being litigated is whether the utility-proposed plan is adequate or not. If you get to the point where we have a determination that, in fact, the plan is adequate, and the only thing preventing the operation of that plant is the refusal on the part of the State and local governments to carry the plan out, then I would say at that point you have a problem. I don't think we are at that point yet.

The second question I have is the same one that Commissioner Gilinsky addressed and that is, is the approach of Federal management of the emergency response really a workable approach? I would say that we are not really the people to answer that. The people who can best answer that are the Federal Emergency Management Agency, they are the people that we look to as the experts in offsite preparedness. I assume that they are also the people who would be responsible for carrying out that responsibility and I would say we really ought to look to them to see whether this is a workable approach. I know that at least on an informal basis they have indicated some concerns about that.

Senator MITCHELL. Thank you personally.

Do I understand what you are saying is until there is some definitive resolution of the adequacy of the plan at Shoreham there is no reason to act?

Commissioner ASSELSTINE. From our standpoint I would have to say that. You have a broader perspective than we do, but that would be my view. I cannot say that there is a problem there until we get to that point.

The final point I would make is that in most places the emergency planning program has worked very well. I think utilities, State and local governments, with our help and with FEMA's help, have all worked together very well to make the system work and there has been active participation in the vast majority of cases by both the State and local governments. I think you want to be very careful that whatever program you develop to deal with individual problem cases that may arise you don't disrupt what may be going on in other areas by imposing a Federal response capability—that you don't deter State and local governments from doing what they have been doing in those cases. I think everybody would acknowledge the best way to deal with the problem is to have both State and local governments actively involved in working cooperatively with Federal agencies and with the utilities to get the plans in place and to be prepared to carry them out if needed.

Senator MITCHELL. Are you suggesting that the existence of a Federal option may inadvertently invite nonparticipation by local governments and States which might otherwise not exist?

Commissioner ASSELSTINE. I guess what I am saying is I have a question about that. I don't know if that is the case, but at least I think that is a question you ought to get an answer to before you go on.

Commissioner GILINSKY. If I may add a word to that, Senator, what is at issue from my point of view is not the plan but the commitment of the participant to carry it out. It is acceptable to use the utility plan if the local and State governments are committed to carry out that plan. It is their participation which is at issue.

Senator MITCHELL. But what do you do, Mr. Gilinsky, in a case where the local and State governments won't commit themselves to carry it out?

Commissioner GILINSKY. Well, we have a problem and not a ready solution, very frankly. This is a problem that we have gotten ourselves into because we preempted authority in many of these matters, and have given it to the Federal Government. The people who built these plants did not have to make an accommodation with the State authorities, the local population, and so on. If these plants don't operate, someone is going to have to pay the bill and those responsible will take the heat for that. When that is clearer, the problem will sort itself out.

Senator MITCHELL. But put yourself in our position. The local government, which is not a hypothetical situation, refuses to participate, the State has so far been unwilling to impose its will on the local government so, in effect, that is a refusal to participate. Now you have a facility worth several billions of dollars, there it is. Whatever the history of how we get to this point or at that point, do we then say, "Well, too bad." It seems to me that understanding the circumstances that you have described does not provide the answer to the problem.

Commissioner GILINSKY. Well, I guess what I am saying is that I think this is the sort of thing that has to get worked out outside of rules and regulations, some accommodations have to be made among the various parties, and there is obviously a lot at stake.

These utilities are regulated monopolies, and ultimately the public bears the burden, there is no question of that, and it is going to be the people of the area who are going to bear that burden, and they are going to have to decide whether they are willing to pay for not having this plant operate.

Senator MITCHELL. Mr. Roberts.

Commissioner ROBERTS. I have no comment.

Senator MITCHELL. You have no comment on this question of prerogative?

Commissioner ROBERTS. Well, I think it is a very complex question that is now being addressed. I don't have a ready answer. I can speak ad nauseam about the problem but I don't have an answer. I would hope in the Authorization Act that you pass for us that you will give us the ability to license a plant based upon the utility finding. I think that is useful. I think you do get into a morass if you give the Federal Government the right to step in. It is possible that could tend to discourage the State and local government from participating and I think that is counterproductive.

Senator MITCHELL. But do you not only deal with half the problem if we give you the authority to license the plant on the basis of the utility plant and then disregard the very real problem of actual implementation of the plant where the circumstances——

Commissioner ROBERTS. I would not be disappointed, not at all. We cannot disregard the implementation.

Senator MITCHELL. Thank you.

Commissioner ROBERTS. A plan is something on paper. The plan is worthless, only the implementation matters.

Senator MITCHELL. That is right, and if the local government and the State government refuse to participate in implementation——

Commissioner ROBERTS. Then it places a very high burden on the utility to demonstrate to us that they can in fact execute that plan on their own.

Senator MITCHELL. All right.

Commissioner GILINSKY. I cannot imagine them meeting that burden.

Commissioner ROBERTS. Well, we have to address the issue, we can't prejudge it.

Senator SIMPSON. Let me get Commissioner Bernthal's comment on it.

Commissioner BERNTHAL. Let me just comment briefly that it amazes me in a way that somehow we always have to wait for a crisis before we are able to take some action that reflects some foresight. Shoreham may not be a good case in point. There are many things we don't know about the status of Shoreham right now and maybe it is a bit like temporary operating licenses. It just seems to me as a practical matter, first of all, it is unacceptable. As Commissioner Gilinsky points out, these are essentially public funds and it is not acceptable for a State or a local jurisdiction that chooses not to cooperate, whether or not a judgment is really made on the adequacy of an emergency preparedness plan, that chooses not to cooperate and hold hostage a very large public investment that a lot of other taxpayers in effect have made.

I would just also comment that as a practical matter I just doubt very seriously that the Federal Government would fail to be involved at some level should a genuine emergency arise at any nuclear powerplant. Now they, as we all understand, would be involved first of all through FEMA, perhaps additionally at the invitation of the Governor of that State, but I just can't imagine that there would not be some Federal involvement at some level in a genuine emergency. Providing for some sort of Federal backup plan, and I am not prepared yet to say exactly what form that should take, also provides for the possibility, and I think it is at least a possibility, that the State may choose, or locale may choose, to rely heavily on the Federal Government for emergency planning. I think somehow we have not considered that possibility. They may very well not want to take all of the responsibility for themselves. That has not happened so far but it seems to me that is one element we might also consider.

Senator MITCHELL. Thank you very much.

Mr. Chairman, that took a little longer than I expected. I think I was overly optimistic, so I thank you very much for deferring and letting me go forward.

Thank you, gentlemen. I will have the rest of the questions submitted in writing.

Senator SIMPSON. Thank you very much. I appreciate your participation always.

Let me commend to you the lead editorial in the New York Times this morning concerning the issue of Shoreham. I think the problem, respectively deferring, is not that we don't know enough about Shoreham, we know too much about Shoreham, and I really believe that. These things worked before. States were always involved in the approval process, always will be, and now we have this situation which is very pungently addressed in this morning's editorial.

I ask that it be entered in the record. No objection, it is so ordered.

[The editorial referred to follows:]

[From the New York Times, Feb. 23, 1984]

MR. CUOMO'S TEST AT SHOREHAM

Resolving the calamity of the Shoreham nuclear plant is one of the harder decisions facing New York's Governor Cuomo. Reasonably enough, he tried to buy time with the standard device of a study commission. But it producecd no useful conclusions, and his office has made no evident progress in sorting out real issues from pretenses.

Sure, Shoreham is Long Island's problem. but it will become every New Yorker's concern if Mr. Cuomo prevents the plant from running, seeking to buy Long Islanders' favor at the state's expense.

The Shoreham plant is a $4 billion turkey. But unlike similar plants now being abandoned, it is vitually complete and ready to run. Long Islanders who oppose the plant contend it is unsafe. It also happens that their electricity rates will rise sharply the moment the plant is turned on and any major share of its vast construction cost is allowed into the rate base. Suffolk County Executive Peter Cohalan has refused to cooperate in the emergency evacuation plan required by the Nuclear Regulatory Commission on the ground that no such plan is workable. Without his cooperation, that may be true.

Mr. Cuomo's contribution has been a sostenuto of equivocation. First he said he would not "impose" an evacuation plan on the county, then that if the county were wrong, "its judgement should not prevail." Nods that he would allow the plant to operate have been followed by winks that he won't.

It now seems that Mr. Cuomo has never left Square One: the veto power he so lightly handed to Mr. Cohalan. In a recent letter to this page, the Governor wrote that the overriding consideration was not economics but safety, and that "the absence of a satisfactory evacuation plan . . . continues to make the safety issue paramount."

The argument is a charade. The intrinsic safety of Shoreham has been definitively assessed by the Federal Atomic Safety and Licensing Board. After a year of hearings, it ruled last September that Shoreham "can be operated without endangering the health and safety of the public." It also criticized Suffolk for distorting the recorded testimony.

Shoreham lacks an agreed emergency evacuation plan only because Suffolk refuses to cooperate and Mr. Cuomo lacks the will to impose one. Last year, when Rockland County refused to cooperate in evacuation plans for the Indian Point nuclear plants, the Nuclear Regulatory Commission threatened to close them down. Mr. Cuomo averted the shutdown by promising to provide state help. If safety is the overrriding issue, why not close down Indian Point? If Rockland's obstructionism can be overrruled, why not Suffolk's?

The real issue at Shoreham is that the plant is worth at least $1.25 billion—the price the State Power Authority is willing to pay for it. To keep it idle without cause is a gross waste of resources. Without Shoreham, more cheap hydropower will have to be diverted into Long Island, raising rates for all the stat's other consumers. Long Islanders will be better off if Shoreham runs, much better off if only part of its cost is allowed into the rate base. Following a clear decision from Mr. Cuomo that Shoreham will run, a constructive plan to spread the cost can emerge.

Crouching behind Mr. Cohalan's skirts to avoid decision is a dismal posture. The ultimate issue at Shoreham is not safety but Mr. Cuomo's leadership and ability to tell Long Islanders the truth.

Senator DOMENICI. Mr. Chairman, what does it say basically? I didn't get a chance to read it.

Senator SIMPSON. Well, I just say that it is a cop out when we continue to say that when the Governor arrives at the overriding consideration it was not economics but safety and that "the absence of a satisfactory evacuation plan continues to make the safety issue paramount." The argument is a charade. The intrinsic safety of Shoreham has been definitely and definitively assessed by the Federal Atomic Safety and Licensing Board and after a year of hearings it "can be operated without endangering the health and safety of the public." It also criticized Suffolk for distorting the recorded testimony and it also goes on to say that the ultimate issue of Shoreham is not safety but Mr. Palmer's leadership and ability to tell Long Islanders the truth.

Rather forceful I thought.

Senator DOMENICI. I didn't read it. I was going to comment I think that the issue was not what we should do with reference to an emergency evacuation plan but what they should do. If they don't want to do it, NRC finds the plant safety, the plant is safe in terms of its design concept, the burden should be on the local people. If they don't want to come up with one, the plant ought to open and it ought to be clear that the county and State didn't want to go through a very simple process. We ought not come here trying to come up with a plan for emergency evacuation for them and if they don't want to do some very simple things, it is their problem and the people ought to know that it is them, not us, that don't want to go through an evacuation process for whatever reason. That is where I come down after listening to it.

Senator SIMPSON. FEMA has to be in there but FEMA's role is doubled because they don't like to interfere, they like to be a cooperating agency, and in that process they have not got the horses to want to do it but if FEMA and the NRC say go, then we better go and we will figure out how to do it from there. That is the issue in my mind.

Commissioner **Gilinsky**. Mr. Chairman, if I may comment at this point——

Senator **Simpson**. I am going to ask Senator Lautenberg who has been patient, and I have even been more patient, I have not started with my remarks or array of dazzling questions yet.

Senator **Lautenberg**. That is why I am here.

Mr. Chairman, I would defer, if you would like, to Senator Domenici.

Senator **Domenici**. No.

Senator **Simpson**. Then I think what I will do, Frank, your colleagues who want to address the issue of TMI will come shortly, I believe, is that not correct?

Senator **Lautenberg**. I won't be so nice to them.

Senator **Simpson**. Then we will go to that but, Senator Domenici, do you have any further questions at this moment that you want to address?

Senator **Domenici**. I have a lot of time today, too, so you don't have to be accommodating to me. I appreciate that.

Senator **Simpson**. Victor Gilinsky, you had a comment?

Commissioner **Gilinsky**. On the point that Senator Domenici made, we decided a while ago that emergency preparedness was to be an integral part of safety, a basic requirement, and that includes off-site response readiness, for that is an essential requirement for the operation of a plant. We have got the problems that everybody has described here, but I don't think we can simply say the equipment is fine, therefore we are going to operate. We can't say, "ready or not, here we come."

The other point I was going to make is that with all due respect to the New York Times, the safety of Shoreham has not been definitively resolved, neither by the licensing board, or any other board. It gets definitively resolved by the Commission itself. There are issues that the board can take up. There are other issues as well. In any case, the Commission has the final say.

Senator **Simpson**. My comment on the whole situation is the raw politics of it, the Republicans and Democrats having a high old roll on it and that serves no purpose whatsoever. That is what I am talking about with Shoreham, that is a charade in every sense of the word.

Let me ask about the research activities. You reflect a significant reduction in funds, $20 million below the level currently committed for fiscal year 1984, in fact that is the second straight year we have had that kind of a cut of that magnitude. Have we reached the point where we have trimmed beyond the fat and are we now seriously impairing the agency's ability to carry out the necessary research activities and program?

Chairman **Palladino**. Mr. Chairman, I believe we cut out as much as we possibly can from our research budget and I would hate to see us cut any more. Many of the big savings that have taken place have been shifted from performing and operating large facilities to getting participation by other organizations, foreign and domestic, in large facilities and thereby giving us the opportunity to fund more effectively than small scale experiments but I think that opportunity now has been taken advantage of and does not exist any longer so I would say that we are about as low in our research budget as we ought to go and whether or not we should go up may depend on the new lesson we learned from the research at hand.

Senator SIMPSON. Well, in this recent report the GAO is highly critical of the process by which the Commission operates the research program. They pointed out the lack of systematic reporting on completed research the fact that it was completed and nobody used it, and ineffective documentation of the use of it as being key problems. How effective is your matching up process now of the research programs of the office of research with the regulatory needs of the Office of Nuclear Reactor Regulation and are there changes that could bring a greater value for the research dollar?

Chairman PALLADINO. Mr. Chairman, with regard to tracking of the research I think there has been established an indexing system which would permit heavy tracking. With regard again to the research used in our regulation, that is a more complex question because sometimes the research confirms the basis on which we have already proceeded. Sometimes what we get are more active codes in the performance of plans. We take longer in trying to assess how much conservatism we have in a particular regulation, for example in the Byron situation. The staff is working on it but it does take some time to handle it. I think the staff has been pretty much responsive to the view of the Board and we would like to hear from them on this point.

Senator SIMPSON. Yes, thank you, Mr. Chairman.

Commissioner ASSELSTINE. Mr. Chairman, I would like to comment and also get back to your previous question. On the GAO comments I think those were good comments, and I think do highlight the weaknesses in the management of the research program. It seems to me there are three basic elements to strengthening the program.

One, the regulatory people who need the research information must clearly identify what their needs are so that when we do the research we have research that really is responsive to those needs.

Second, our research people must make our needs clear to the contractors who see that most of our research work is done.

Third, when the research work is done, we must insure that the information is fed back up the line and used by the regulators so that we have the information we need to make decisions and we make decisions based on that information.

I think the GAO report highlighted weaknesses in a couple of those areas. We have taken steps since the GAO report to strengthen the management of the research program to better coordinate the need of people identifying the regulatory issues and the people directing the research work, but I think we still have some problems there. We also have problems in making sure that our contractors, the laboratories, understand what they are doing and how it fits into the overall picture of trying to address the regulatory issue.

In terms of the amount of money in the research budget, I guess I am a little more concerned than the chairman that perhaps the cuts this year have gone a little bit too far. OMB did cut us back on the research program this year. Again, as you point out, that is the second year in a row and I am not prepared to identify today specific areas where I think we could use some additional funding but I would like to think about that and submit those to you. I think the research work is very important in trying to address and resolve the problems that keep cropping up in the operating plants.

I agree with Commissioner Gilinsky that we have to focus a lot of effort on the operating plants as the number of those plants continue to grow. I guess we should not do that at the expense of research.

Senator SIMPSON. Thank you.

I think our oversight function is to retain the nucleus of technical talent in the national labs and so somewhere the research budget should not drop further or we will seriously drain away that talent.

Commissioner BERNTHAL. Mr. Chairman, if I could just comment briefly on that point because it is a key point. I think one of the elements in research that is so often forgotten, it seems to me, is the human element in research and it certainly applies to the NRC which I think by most accounts has the greatest technical expertise in-house of any agency in this city, and I think I can say that without fear of contradiction. The problem is how do you preserve that kind of expertise, and you don't do it by slowly lapsing into a mode as has been called previously a time or two as baby-sitting reactors as we move into the 1990's. I think it is essential that we maintain frontier research for the people that are going to form the nucleus of NRC, technical expertise, as we go on in the next decade.

I just would like to make one comment further briefly on both of the two facilities that I have had experience with, Idaho Falls and Los Alamos. One of the most important activities of NRC research right now is that involving source term study and Idaho Falls is carrying out very valuable source term experiments as you probably know.

Commissioner GILINSKY. If I may say a word, Mr. Chairman, there is not any question in my mind that it would be an advantage to safety if some of the funds for research were shifted over to increase the inspection force.

Senator SIMPSON. Thank you.

Let me ask some questions about uranium mill tailings because the EPA has now promulgated its final general environmental standards for the actual sites and when first proposed the NRC was highly critical of both the substance of the EPA proposal particularly with relation to the ground water requirements and the procedural workability of the concurrence role. How many of those concerns now have been addressed in final standards promulgated by EPA, Mr. Chairman?

Chairman PALLADINO. The approach as suggested by the NRC was not followed by the EPA and particularly on ground water where they are taking the position that the ground water should not be degraded below the potential use whereas the EPA said the ground water should not be degraded period regardless of the condition. That is one aspect of the standards.

The other aspect had to do with rate on emission and amount of cover. We had suggested that we take a risk approach to coping with that. The EPA came back with an emanation standard that we are now able to administer.

Senator SIMPSON. I thank you.

Let me come back to that later. Let me go now to Senator Lautenberg who has been very patient and now we come to the issue, I believe, that he wishes to address along with Senator Heinz on TMI, so first Senator Lautenberg and then Senator Heinz.

Senator LAUTENBERG. Thank you, Mr. Chairman.

This, of course, is a new experience for me as a new member of this committee. In terms of the process of questioning, I guess I will address my questions to the chairman and then anybody else is invited to comment.

Senator SIMPSON. Sure.

Senator LAUTENBERG. First of all, just a point of clarification here. You met recently and decided to decide in June about the startup of TMI-1; is that correct?

Chairman PALLADINO. Yes, sir. We met to set forth some conditions on which we might proceed and expressed a desire to try to get something done by June.

Senator LAUTENBERG. Well, that shutdown took place somewhere around 1979, right?

Chairman PALLADINO. Yes, sir.

Senator LAUTENBERG. Was the elapsed time not sufficient? I am curious why, in the period of more than 4 years there has not been enough time to make the decision.

Chairman PALLADINO. To go back, there was a process going on, I think it was pretty much on schedule, with regard to the hearings required to develop the basis for these starts and then the number of issues started to rise, I think the first one was the cheating incident which diverted the attention of the board——

Senator LAUTENBERG. Cheating?

Chairman PALLADINO. Cheating on examinations by various operators and there have followed a number of other allegations—a number of other investigations and a number of other allegations. I am trying to get my arms around those matters which has been part of the delay in getting enough information with regard to those allegations so that we had a basis for proceeding.

What we did at our January session was try to set forth whether or not the Commission was going to wait for all of these things to be resolved and most of them having to do with management integrity. In essence we were addressing the management integrity issue. The tentative conclusions, and I say they are tentative because until we actually put out an order you never know how they will come out, but the conclusions were that we didn't really need to await the conclusion of the Met Ed criminal trial. If we had an organization that had replaced the Met Ed operating organizations at TMI-1—and now speaking primarily for myself, and I think I represent the majority—the feeling was that we have a new organization with a new president, new vice president, and we were working on the premise that the people that are going to be working and operating TMI-1 would be people who would not be cast by an aura of suspicion with regard to TMI-2. The organization has proposed to have no TMI-1 people who were particularly suspect on TMI-2, however, in operation but they did have them in some other ancillary positions and those are still open to discussion by the Commission.

Senator LAUTENBERG. Commissioner Gilinsky, do you have a view on that?

Commissioner GILINSKY. Well, I made my views public some time ago, and said I was ready to decide the issue then and in fact——

Senator LAUTENBERG. Ready to decide the issue of restart?

Commissioner GILINSKY. Yes. The particular issue that was before us, the pressing issue, was the question of integrity of the management of the company. It is unfortunate that the Commission didn't deal with this right at the start. It was reluctant to do so. That is past history, but it is what dragged this process out. The case was turned over to a hearing board, and it took quite a long time to reach a decision. When the commission was almost ready to reach a decision, some other things came up, which the chairman alluded to, which made it awkward to go forward. After that, the indictment was brought, and so on. There was also a trial between the reactor vendor and the utility company, which brought out new information. So as these things dragged on, it became awkward to go forward. The reason it took so long is that the Commission was unable to say yes, and did not want to say no, so we waited and waited.

Senator LAUTENBERG. Do you now have enough information or will you have enough reliable information by June to make that decision?

Commissioner GILINSKY. I felt we should have made the decision some time ago, and changed the management of that company. I think that would have been a very good thing. Had it been done years ago, and it could have been, we would not be here today.

Senator LAUTENBERG. So the linkage for you, and apparently also for you, Mr. Chairman, involves the management in place of the management integrity, and the restart. These two are intertwined and closely connected, are they not?

Chairman PALLADINO. Well, I think we both are using the word management but I think we are speaking about different orders of magnitude. I concentrate on the organization that is licensed to operate, not GPU nuclear, and is that a separate renewed competent group with appropriate integrity. Now Mr. Gilinsky goes further and asks whether the people above that have shown the proper integrity, and I think that would be a little more than the majority has indicated in this.

Senator LAUTENBERG. Mr. Asselstine, do you want to make a quick comment on this?

Commissioner ASSELSTINE. Yes. I think you have to keep in mind there are two approaches. A number of issues came up after the licensing board proceeding was over. The middle of last year we began to look at how we could finally resolve those issues. We began to develop the schedule, and the schedule stretched out well into 1985 and perhaps even beyond that. So at that point I think all of us agreed that we would be prepared to consider other options that would allow us to reach a short-term decision on restart before we had all the information necessary to finally resolve all those issues. I think the principal issues that would extend the schedule for some time would be the management integrity issue—the character of the licensee to operate the plant.

The GPU proposal, which the majority endorsed in January, was one option for allowing an earlier decision; that is, before we have the investigation completed, before we can reach a final judgment on management integrity, to allow the plant to operate in the interim. My own view, and I think Mr. Gilinsky's as well, was that the GPU proposal did not go far enough, it did not isolate those people who were implicated by the various integrity issues that are still under investigation.

My view all along has been that I have no difficulty in making the decision on an interim approach but that it has to be an interim approach that really does satisfactorily address the present status of the integrity issue. I don't see how we can say the plant should restart if it involves people who are directly implicated by the issues under investigation, including the criminal trial.

Senator LAUTENBERG. Apparently none of you feel that the information you get is reliable enough. For instance, the hardware modifications, have they been made? Are you saying that you don't have any way of reaching into this thing on your own or through some reliable source that says, yes, we are satisfied with that part. You may not want to turn this ship over to the same skipper. That is another question. What I am trying to find out here is whether the ship in fact is ready to sail.

Commissioner ASSELSTINE. Those I think we can address and reach a decision. We have taken review of some of those issues, and we will be addressing those.

Commissioner GILINSKY. There is a problem—precisely the one you mentioned—do you want to turn the ship over to the same skipper. The rest of the issues will sort themselves out.

Commissioner BERNTHAL. Let me just make a——

Senator LAUTENBERG. I am being warned by my very kind and benevolent chairman.

Senator SIMPSON. You can come back. We will have 10 minutes with Senator Heinz and then we will come back.

Senator LAUTENBERG. Can we just finish the response?

Senator SIMPSON. Yes, indeed.

Commissioner BERNTHAL. I just wanted to make a brief comment on exactly what the January 27 decision was, Senator lautenberg. I can only speak for one Commissioner but this Commissioner did not vote on the GPU proposal and did not take the GPU proposal as a sufficient condition for restart. Stripped of all of the surrounding rhetoric, that vote was on a single issue and that was whether the NRC should require dismissal of two senior management individuals from any of the nuclear operations and presumably in effect from General Public Utilities. There was not a yawning chasm, it seems to me, between the various members of the Commission on the issues that affected restart as they related to management integrity. But there was a difference on that single issue and the single question that we had to answer is whether that senior management in our judgment was capable of running that plant safely.

We ruled on none of the other issues and I would just point out that until this Commission is prepared to address the question of why that senior management is adequate and has been adjudged adequate for the last several years to run Oyster Creek in the State of New Jersey and has made no judgment against that, then I am not prepared to say that that senior management is inadequate to manage the Three Mile Island 1 unit.

Senator **Lautenberg**. Thank you.

Thank you, Mr. Chairman.

Senator **Simpson**. Senator Heinz.

Senator **Heinz**. Let me first of all thank you and the other members of the Committee for permitting me to return. This was the first Committee I ever served on in the Senate, it was even before you came. I served on it for about 36 days back in 1977.

Senator **Simpson**. Was there a reason for that?

Senator **Heinz**. Well, we were not sure but back on that day somebody decided to hold all the freshmen hostage to forming the committees. We had to cut the number of committees, reduce the number of subcommittees, and as you can see we have come a long way mainly in time.

Mr. Chairman, I appreciate, too, the chance to ask this distinguished group of people about the Three Mile Island. I am delighted to see a constituent here, if he has not changed his address yet, Nunzio Palladino, whose confirmation I testified in favor of and that seems like 50 or 60 years ago—probably seems longer to you.

Chairman **Palladino**. It seems that long.

Senator **Heinz**. Let me ask, Chairman Palladino, did Metropolitan Edison falsify reports on leak rates?

Chairman **Palladino**. Senator Heinz, that is now a matter in the courts on the criminal proceeding and I would not propose to make any comment on it because all the facts are not in.

Senator **Heinz**. Well, let me ask—I see Commissioner Asselstine moving and I will get to him in a minute.

Is it or is it not material to any judgment you may make about the integrity of Met Ed or for that matter GPU as to whether or not there has been falsification? Is that an important question?

Chairman **Palladino**. Well, the falsification comes in three parts. Falsification that had to do with Three Mile 2 was the major one and that is the one that is before the courts. With regard to that one, if we were having any people operate TMI-1 who had been known to be involved with that, then I would say that would be a significant matter but the concept behind the proposal as Mr. Bernthal indicated that we are working on is that none of these people would be put in the positions of operation in TMI-1.

Now there is also an allegation that similar falsifications have taken place on TMI-1 and that it is said, yes, there is something we do want to try to come to grips with before we would make a restart decision. It is a little complicated because some of the people that might shed some light on that are some of the same people who are witnesses in the court trial. However, we have asked our Office of Investigation to go as far as it can and then come back with its report, and I think its report will be due in the not too distant future but it is an item that would be significant in Three Mile 1 restart.

Senator **Heinz**. Let's take, if you will, in a sense the easier question because it is not yet involved in the court, maybe it never will be; namely, the possible falsification of TMI-1. Until you have decided whether there has or has not been any falsifications of TMI-1 by people at TMI-1, how can you consider restart?

Chairman PALLADINO. Well, we said that we will examine and have an office investigation explore the allegation of falsification of TMI-1 and we would get their report before we would make any restart decision and then we would determine whether or not we need to wait for any more information. So we are not proceeding by ignoring the TMI-1 nuclear allegation.

Senator HEINZ. Now going back to the TMI-2 falsifications, you, in effect, are saying that even if people who work at TMI-2 are guilty of very serious offenses, both serious in terms of law and serious in terms of the safety of the plant, that that is not really a factor that should be used in judging—I think your phrase to Senator Lautenberg was whether the management of GPU was capable of running TMI-1 safely.

That theory bothers me. It bothers me for the reason that individuals were not named with any criminal indictments. The corporation, General Public Utilities, is the named person, the corporate person in this case, and therefore the corporation hangs under a cloud. Now, as a former businessman, I would worry that there are some problems in the corporation having to do with management systems, accountability mechanisms, corporate oddity—internal oddity that is—that might allow incompetence and illegal and, in the case of TMI-2, immoral activities of falsifications to have taken place yet your position seems to be that the Nuclear Regulatory Commission should not worry about that and should proceed independently to decide whether TMI-1 should be restarted. Is my statement of your position correct?

Chairman PALLADINO. No, not exactly, Senator Heinz. You mentioned the corporate body. The corporate body that was being investigated by the Department of Justice was the Metropolitan Edison Company, it did not go after GPU. Now that in itself has some significance for me because that is where the thrust of the falsification was.

Senator HEINZ. I meant to say GPU. Thank you.

Chairman PALLADINO. Now with regard to operation of TMI-1, a completely new organization, GPU Nuclear, was established to operate TMI-1 and also to oversee TMI-2, but with regard to TMI-1, there are no people or it would be my intent that there would be no people in that organization who are operating TMI-1 who have had an involvement in the TMI-2 falsification and so the question that came down was, what about the management of GPU Nuclear and it came down to individuals on whom we had to make a decision whether or not we felt that they were competent to oversee the operation and I think Commissioner Bernthal gave a good point on that. Incidentally, he said there was only one issue decided. There were two issues being decided, the one that he mentioned about whether or not we thought upper management could do it and the other was whether or not they could manage.

Commissioner GILINSKY. May I make a correction to that.

Senator HEINZ. Commissioner Gilinsky.

Commissioner GILINSKY. At the time the Commission dealt with this in January, one of the people that the chairman referred to was in fact the chairman of the GPU nuclear and chief executive officer.

Senator HEINZ. Well, thank you. I think that is helpful to point that out.

Mr. Chairman, I must say that I have enormous personal respect for Mr. Palladino, but in this case I must say I disagree with his interpretation of what kind of accountability, either Met Ed or GPU, and Met Ed is the subsidiary of GPU, bears here. I am troubled by the notion that you can just kind of wait and let the criminal trial take care of it itself and none of that reflects in effect on management's integrity. It may very well be that the two top people at Met Ed, or the people at GPU, for that matter, know the nuclear industry, but whether they are really the kind of good managers for the organization which they run. Are they held sufficiently accountable for integrity? It seems to me that is an issue hypothetically.

This reminds me of a situation where if you had a U.S. naval vessel at sea and the captain was being court martialed for having run it into the rocks, I would wonder if it would be proper for the U.S. Navy to give that captain another ship before the court martial had taken place, and that is exactly, it seems to me, what the Nuclear Regulatory Commission is proposing to do.

Chairman PALLADINO. Senator Heinz, I like your analogy and I would like to pick up on that. The skipper is being changed.

Senator HEINZ. I have not finished my analogy.

Chairman PALLADINO. I am sorry. I will wait until you are finished.

Senator HEINZ. Another analogy happens to be, and you might want to react to this one, too, but somebody driving a car wrecklessly, dangerously, under the influence of alcohol, runs someone down in the street, is arrested, hauled to the police station and then, during the course of his stay at the police station while he is being held under arrest, he changes his name and is allowed to drive home. Now it seems to me that is the other theory under which we could be proceeding here. Would you please feel free to react to either one of those?

Senator SIMPSON. May I say, try to limit these to 10-minute excursions.

Senator HEINZ. I thank the Chair. I have no more questions.

Senator SIMPSON. You have a series of analogies there.

Senator HEINZ. They are tougher than the question, Mr. Chairman.

I would like to submit six questions in writing for any members who wish to answer them, hopefully.

Senator SIMPSON. They will be accepted for the record without objection.

Did you have further comment, Mr. Chairman?

Chairman PALLADINO. With regard to your analogy about the skipper that runs the ship into the ground, you could change the skipper but you don't change the Secretary of the Navy or the Secretary of Defense as a result of that and I think the skipper has been changed and I think that the team that is in place now shows evidence of being competent and having the integrity to operate that plant with the reservation I have on the TMI-1 falsification.

I think with regard to the second analogy, this is more than a change in name. Troflock is a new president, Mr. Kitner is a new vice president, they are very competent people, I have known both of them for most of my existence. The organization has been changed so that the people cannot be involved in TMI-2, are no longer there except in a few ancillary positions that we still want to examine. Admiral Rickover did look over the organization and he found it quite competent to proceed so I am not quite sure the analogies that you stated are quite correct.

Senator SIMPSON. Thank you very much.

Did you have a 15-second rebuttal that you would like to render?

Senator HEINZ. No.

Mr. Chairman, a board of inquiry need not strike only at a captain, it can strike up and down the chain of command, it can strike the squadron commander as well as the Secretary of the Navy, but what I hear Mr. Palladino saying is that he just has a great deal of faith in the individuals that have been brought in. I hope his faith is justified at this point. I feel that that is insufficient for my purposes but he is entitled to his very distinguished opinion.

Senator SIMPSON. Thank you very much.

Senator HEINZ. My time has expired.

Senator SIMPSON. Senator Domenici.

Senator DOMENICI. First let me say, Mr. Chairman, we have a little problem in our State. The Mexican steel has been improperly manufactured and contains some cobalt 60 which causes some of the steel to be radiated beyond that which any of us think ought to be used and we called the NRC in particular. We were able to locate Mr. Asselstine, and they were able to provide some additional help on the border with reference to how that steel was getting in, and I want to thank you for that. I don't want to burden this record's time with what the statute is unless you can do that briefly other than say we appreciate your help.

Commissioner ASSELSTINE. There was a meeting on Friday, I think.

Senator DOMENICI. Great.

Commissioner ASSELSTINE. I don't have the information on what occurred at that meeting.

Chairman PALLADINO. I wonder if we might not have one of our staff members respond, if they think they can provide the information.

Senator DOMENICI. Thank you very much.

Why don't we do this, Mr. Chairman, if it is all right with you? Could we have that staffer provide the written résumé for us, so we don't have to use the committee's time at this point, and then we can forward it to the Mexican authorities. Is that satisfactory?

Senator SIMPSON. It certainly is.

Would the Commission furnish that?

Chairman PALLADINO. Yes, indeed.

Senator SIMPSON. Thank you. So ordered.

Senator DOMENICI. Let me quickly comment with a little more specificity about this plant that we are talking about in the New York Times editorial. Commissioner Gilinsky, I am fully aware of what you commented on, however, I would say this. It appears to me that in this situation of what happened where this plant was already started and in the process of being constructed the commitments were made and the investment was made, the utility people were aware of this process of building a plant. Then TMI came along, then the requirement to match the requirement for emergency planning for evacuation.

I truly believe that that justifies some different activities on your part than if you were starting right up front. It makes your job more difficult but I don't believe we ever intended to permit local governments to veto this process by inaction at this level of evolution. It may very well be that there is no way out when you start the process if they don't want to commit, and you surely ought to make them commit ab initio before you ever start the plant and put the heat on them from the local people if they must do it but here we have this thing ongoing and the requirements made, so I don't think we intended that they could cause that huge investment in that process at this time and at this late date by inaction.

Having said that, let me move to another thing, the uranium mill tailings. Obviously if you continued on the path we are on now, Mr. Chairman, we won't have any problems with mill tailings because you don't have any uranium mines in the country, and for some that will be a welcome day, from my standpoint it is the height of lunacy. We are going to be, in 15 years or so without any productive capacity in uranium. We are going to be 40 to 50 percent of capacity in 7 or 8 years. It is amazing how we run around worried about importing oil but we soon will be at the mercy of Canada and Australia on uranium and then we will wonder when they decide to change directions arbitrarily, what is happening to the industry here at home.

Mill tailings stabilization is an important part of what we can even keep ahead of in terms of an economic, viable industry called uranium mining. I clearly understand how difficult your jobs are, in fact I wonder why you took the job, and I asked you that as you left our staff.

Commissioner ROBERTS. If I had known then what I know now, I wouldn't have.

Senator DOMENICI. I understand but that is your status and it is too bad and you're stuck.

Let me suggest that this statute that we prepared in reference to agreement States, a mill tailings stabilization plant clearly envisions that the agreement States were to have flexibility and that you were to give them the flexibility so long as they were going to develop plants that were at least as responsive to the safety problems as the specific national standard or mandate. Now since that case it appears to me that you cannot abrogate that by such things as permitting the Rickrub requirement for liners. You know, they say you got to have a liner, they admit that liner may leak. If you don't step in and say you have time to come up with your alternate plan, you are denied the alternate by insisting on a liner.

That seems like a little thing, I hate to even burden you with it, but it is very major, it is a question of philosophy and approach and are you really going to have these mill tailing sites half old and half new in evolving because you have a mining activity? Are you going to put these kinds of burdens on them that they have to change every 3 or 4 years? That is one, and I will let you answer it in a minute.

The other is that EPA finally got around to setting their standards, I guess it was not too long ago, again with reference to agreement States, and you are in the process of developing yours and yet if I understand correctly you have told the agreement States that they are to comply with EPA now, and how can that be? They apply now for 8, 10, or 11 months and then you have your plan and they undo it? It appears to me that the flexibility part would require that you go slowly here until you get yours developed and then see if they have a game plan or not and not mandate that they comply with EPA's mandate only to have it perhaps changed shortly when you are finished.

Now those are two on mill tailings. I just would like your comments, Mr. Chairman, or anyone else.

Chairman PALLADINO. Let me comment, maybe I will start on the second one and then come back to the first one.

Senator DOMENICI. Sure.

Chairman PALLADINO. The requirements on terminations filed, is a requirement, a matter of law that we are all familiar with today. Now at the present time I am not aware of any mills or any files being closed and so that is an issue that we have sometime to work with but eventually we are going to have to comply with the type of sanctions that are needed.

With regard to the liners, the liners apply to new tailings piles or lateral extension of existing tailings piles. Unfortunately, the law did not or the EPA regulation rather did not permit the flexibility of the Commission with what they hoped to see and they said it would have to be a synthetic liner though we still believe that we can work with EPA to try to develop alternative kinds of language for new types of systems. We have some time in which to work before the requirements of emanation that are covered become crucial.

With regard to the second aspect, the ground water, the standard EPA requirements are that there be a system on monitoring wells arranged for and that this be done by December 5, 1984, and that then there is the use first to establish a reference and then to follow along. Now that one I think we are obligated to follow to develop a monitoring phase for future use.

Commissioner ASSELSTINE. Senator, just a few comments. Let me start with the second issue first. Our Legal Director's office did do an analysis that concluded that we were required to make EPA standards immediately effective both for our licensees and our agreement States—and unfortunately I think that position went out to the States before we had a chance to look at it. I guess I have some questions about that position. It seems to me that you can make an equally good argument that we could comply with the law by structuring a phased-in evolution of requirements; that is, the EPA standards, followed by a period of time for the Commission to develop its regulations, followed by a period of time for the States to develop their regulations, including the proposal of alternative approaches. I guess I would like to take a fresh look at that before we lock ourselves in on that.

On the first issue, I am not quite as sanguine as the Chairman about whether there are real alternatives to the liner approach given the way the EPA standard is structured and to the way that EPA is approaching the issue. My impression was that if you wanted to go with an alternative, it had to be an alternative that basically precluded any migration at all. I am not sure that that leaves much of any real alternative to the synthetic liner or perhaps even a double line with a synthetic line around the top of the clay. I think we ought to talk to EPA about it.

I know Commissioner Bernthal and I have both been suggesting that we begin discussions at the highest levels of both agencies and to see what flexibility there is, and to see what alternatives there are. At this point, I am not real optimistic that there is an easy solution to the problem. In fact, in our comments to the EPA when they were developing their standards, we noted that we saw big problems on this issue because there was little flexibility. Those comments were not reflected in the final EPA standard.

Senator DOMENICI. Mr. Chairman.

Chairman PALLADINO. Two quick comments. One, if there is uncertainty in what the Congress meant, I think it would help if the Congress would speak in clarifying the matter. Second, we are working at various levels to try to resolve some of those issues or at least identify them, and as soon as that is completed, then we will carry it all the way out to a meeting between Mr. Ruckelshaus and myself.

Senator DOMENICI. Thank you, sir.

Senator SIMPSON. Thank you, Mr. Chairman.

Senator Specter, you wanted to participate. It is nice to have you with us. Please proceed. We are under the 10 minute rule.

Senator SPECTER. Thank you very much, Mr. Chairman. I very much appreciate being able to join in these proceedings.

Chairman Palladino and gentlemen, the concerns which I have, I think, are shared by Senator Heinz and also by Governor Thornburgh, and involve the reactions by people in the State of Pennsylvania to the issue of safety and competency of management. We are also very much concerned about the cost of energy to the consumers there and we regard the factories, companies, stockrooms, the entire particular industry which is very much on the line, Three Mile Island, for the reason you all very well know. The great concern that I have that turns on the long delays having the NRC come to the conclusion about this matter one way or another and in the face of the many questions which were posed, as you qentlemen know, I held informal hearings in Harrisburg on December 16.

The central question in this matter is the competency and integrity of GPU and the two principal officers, Mr. William Kuhns and Mr. Herman Dieckamp. In anticipation of my hearing on December 16, I met with them in my Philadelphia office on December 13, and was astonished to hear that they had never been questioned by any representative of the NRC, from the time of the incident in March of 1979 until December 13 of 1983. Now my hearings were 3 days later and then, magically and mysteriously, they were questioned between Tuesday and Friday. When I asked them to confirm that they had never been questioned, they said, oh, we have been, we were questioned in the last 2 days.

Now my question to you, Chairman Palladino, how can you investigate competency and integrity of GPU without questioning Mr. Kuhns and Mr. Dieckamp on the very basic issue of what they knew and what they did?

Chairman PALLADINO. Well, Mr. Chairman, I sent an inspector out. I was equally concerned that these people had not been talked to. As a matter of fact, there have been no allegations made against them, and that is why some of the investigations have not gone forward.

Senator SPECTER. Chairman Palladino, you don't have to have allegations made against someone, you have the responsibility for making the determination. How can you find out whether Mr. Dieckamp and Mr. Kuhns were right, wrong or indifferent if at least you don't ask them?

Chairman PALLADINO. Well, we had them at Commission meetings in which it has been discussed, the questions that we had with regard to integrity.

Senator SPECTER. Chairman Palladino, that is not really responsive or at least if it is, Mr. Dieckamp and Mr. Kuhns could not give me the facts. I asked them if they had ever been questioned about their actions on the TMI incident, what they knew and what they did, and they said they had never been questioned.

Chairman PALLADINO. Well, that's——

Commissioner GILINSKY. We did have hearings on the question of integrity of management at which Mr. Kuhns and Mr. Dieckamp appeared, and we certainly discussed the action of the company in reaction to that incident.

Sentor SPECTER. Were Mr. Dieckamp and Mr. Kuhns asked what they knew about the allegations of coverup, what they knew about the problems?

Commissioner GILINSKY. I think the issues there turned more on how they dealt with the problems of the company.

Senator SPECTER. That is the point, that is my point. How they dealt does not really relate to their competency.

Commissioner GILINSKY. Well, I have to say, Senator, I disagree. They are the people in charge of the company and it is up to them to insure that the company is run properly.

Senator SPECTER. But were they asked what they knew about the problems at TMI?

Commissioner GILINSKY. I am not sure how to respond to that.

Senator SPECTER. Well, they said to me that they were never questioned about these issues.

Commissioner GILINSKY. We discussed extensively things like whether the company had failed to inform the authorities properly on that day, and what they had done about it, and so on.

Senator SPECTER. During the course of the hearing which I held on December 16, Mr. Harold Denton of your staff said that it was inexplicable to him why a statement took 5 years to get, and that is the question I have of you gentlemen, starting with you, Chairman Palladino. Why has it taken 5 years to get where we are, without having the NRC come to any conclusion on the issue of competency and safety?

Chairman PALLADINO. Well, Senator Specter, when the Commission decided to keep this plant shut down, it set up a procedure by which it would decide whether or not to start it again, and that included hearings, and these were going pretty much on schedule, as I indicated earlier, until new developments started to take place. I think the first one was with the licensing board and was the question of cheating on examinations by the operators that had been involved with the Three Mile 2. The board then went into great detail to look into it and then deciding itself on the results of it. Then other issues began to arise, with which we had to deal, and trying to get the Commission to a position where we have nothing to measure, and I focused attention on making the decision and that is where we are.

Senator SPECTER. Was Mr. Kuhns ever asked whether he knew about the cheating on the exam matter?

Chairman PALLADINO. I hesitate to answer that without getting more information.

Senator SPECTER. All your proceedings are on the record, there are transcripts.

Chairman PALLADINO. Yes.

Senator SPECTER. I will review those transcripts to see if you asked those questions but I repeat, Mr. Kuhns and Mr. Dieckamp said to me and later on the record they had not been asked about those subjects ever up until December 13.

Chairman PALLADINO. If I may, I would like to look back in the record, too, because there were hearing board presentations that I would hesitate to just jump in and say the answer is thus and so.

Commissioner ASSELSTINE. Senator Specter, if I could make a couple of points on your question about why it has taken so long. I don't think any of us are happy about how long it has taken. As a matter of fact, we are still not in a position today to reach a decision one way or the other, but I think part of the reason that it has taken so long is that we started out with a proceeding that was limited to a few basic issues, the adequacies of the GPU organization. I think we intended to focus mostly on the role of the organization during the accident and also on the competence and qualifications of the people in the new organization.

Then the cheating incident occurred, and the proceeding was expanded to include that element as well. There were hardware issues and those hardware issues tended to evolve and grow and new issues were added as time went on. In the management integrity area, a lot of those issues were issues which came up after the proceeding began. The number of concerns in the management integrity area just mushroomed. I think a large part of the reason it has taken so long is because new issues have tended to crop up that are relevant to the decision on whether the plant can operate safely.

Senator SPECTER. The concern I have is as to your procedures. This matter has been heard by the NRC Office of Investigation, by the NRC Special Inquiry Group, by the Atomic Safety and Licensing Group, by the Atomic Safety and Licensing Appeal Board and by the Special Master. I am considering some legislation which would require an expedited procedure on administrative agencies, not only the administrative agencies, the Subcommittee of Judiciary, and the question that I think has to be addressed overall here as to this TMI-1 incident, and also for future investigations, is why is there a proliferation of so many separate inquiries when you have such an important matter. This is the most important matter the NRC has had before it, probably will ever have before it. Why doesn't this Commission hold a hearing itself and hear the evidence and decide on that?

Commissioner **Gilinsky**. I want to say, Senator, I agree with you completely on that. I think that should have been done 4 years ago.

Senator **Specter**. Why don't you do it now? I would adjourn these hearings if you would do that.

Chairman **Palladino**. I don't think that would be a practical approach.

Senator **Specter**. Why not?

Chairman **Palladino**. Well, because the Commission then would have to take all the time a hearing board or an appeal panel takes in receiving all the information that has already been gathered and then reviewing the record, and meanwhile we do nothing else, and there are many other plants and many other activities that the Commission is engaged in.

Senator **Specter**. I think you do that anyway.

Chairman **Palladino**. I think there are several points that ought to be made with regard to the multiplicity of the activity that you pointed out. The procedure was going on as it had been established by the Master with a licensing board and then an appeal board panel. When these other allegations came up, they had to be investigated, and this is why we got the Office of Investigation going in and trying to develop the facts.

The matter of cheating was a matter that the licensing board itself decided to handle by means of a Special Master to collect the facts. Even they found it took a lot of time to get the facts and deliver it to the board. So I think we may actually be expediting the matter by getting some of these things a little more thoroughly.

Commissioner **Gilinsky**. Over this period, Senator, the Commission has spent over 100 hours in meeting time on this subject. Had it has not been focused, we would have decided the issue.

Senator **Specter**. I don't think there is anyway you can construct this matter or spend more time on it than you already have. It seems to me, and I have a lot of experience with trials and administrative proceedings and factfinding, that there has to be some basic investigation which is done but that can be rather limited. Then if you convene as a commission and you bring witnesses in and you hear them and you know what they are saying and you hear all the points of view, it would be much faster than to have these multiple levels of proceedings and then you have to review the records and you have to resolve conflicts, and questions arise in your mind and there are remands, that I would suggest to you that it would be a much faster process if we convene and you heard the case yourself.

Senator **Simpson**. I really appreciate that frustration and I share it with you and I would be pleased as a fellow member of the Judiciary Committee to pursue that with you. I very much would, and maybe we could get the legislation which we might have on a concurrent or sequential referral. But it has taken longer to deal with this issue, and this is not criticism of these five gentlemen; it really is not to me because you have to understand what goes on in the legions of lawyers in the NRC—they are paralyzed by tentativeness, they will not move, they are afraid. They don't want to get egg on their face, they don't want to have anything like a Three Mile Island, and they are paralyzed. That is my view; it has taken longer to do this than a typical operating license, if you can believe that.

Management integrity is an issue but the real issue is the procedures of the NRC which I call son of the Administrative Procedure Act and grandson of the Administrative Procedure Act—the licensing board, the appeal board, the NRC is the Supreme Court and then you start all over. Let me tell you, you are honing in on something but this is an extraordinary absurdity and we have to address it at the root.

Senator SPECTER. May I ask one more question, Mr. Chairman?

Senator SIMPSON. If you could, and then I want to go to Senator Lautenberg on this and Senator Biden and I want to have the appropriate time to give them.

Senator SPECTER. I will limit it to one more question. I appreciate the opportunity, Mr. Chairman.

On the letter from your General Counsel to me, Purcell H. C. Payne, dated November 23, 1983, on the underlying question of safety integrity, this is what Mr. Payne wrote. "The Commission intends to assure that the questions about GPU's competence and integrity are adequately resolved prior to making any decision on restart."

In the light of that commitment, how can you have partial restart before resolving the issues of competency and integrity?

Chairman PALLADINO. Senator Specter, the pressure I have been putting on the Commission is to come to grips with the question of competency and integrity. We are not trying to bypass it; as a matter of fact, that is why I have specifically asked that we vote whether or not we have felt that we had questions about Mr. Kuhns and Mr. Dieckamp and the extent to which we needed to wait for the various investigations underway. So I don't think we are trying to separate it or to bypass it but are trying to address it and we have fulfilled the words that Mr. Payne indicated.

Senator SIMPSON. Thank you very much.

Senator Lautenberg.

Senator LAUTENBERG. I have to respond to Chairman Palladino's comment about not firing the Secretary of the Navy or the Secretary of Defense. We are all very much aware of the fact that President Reagan recently took the responsibility and the blame for the bombing in Beirut. He was not there but that is where the buck stops. I come out of the business world, and people must ultimately be responsible. You cannot deny, in my view, the normal management structure.

I would like to just get on to something that Commissioner Bernthal started with before we discussed the integrity issue at length here. I have a fairly simple question and that is that while we grapple with the question whether we restart TMI-1, Oyster Creek in New Jersey continues to operate. If the GPU management is questioned as to competence, integrity, et cetera, then what is it doing running Oyster Creek?

Commissioner **Gilinsky**. Good question. In putting out my views about a year ago, I did take up the question of Oyster Creek, and said that what applied to TMI applied to Oyster Creek. I must say that in the past, Oyster Creek was not run well, and there were a lot of problems there—which I think are in the process of getting straightened out—which pointed in the same direction as TMI.

Senator **Lautenberg**. We ought to be concerned about it. Otherwise, there is a question of a double standard of play. We love our neighbors in Pennsylvania but we don't want them to be more safe and more secure than the people of New Jersey.

Commissioner **Asselstine**. I guess I disagree with the point Mr. Gilinsky makes. I don't think you have the same problems in terms of the integrity issue with the lower-level employees when you get down to the plant-level personnel at Oyster Creek. With regard to the higher organization of the company I agree with Commissioner Gilinsky that the same concerns apply. I think it is interesting to note that after the Commission's action in January the company itself has taken at least one major step to help resolve that problem on its own.

Commissioner **Gilinsky**. Sir, on the business of the CEO being the person in charge, all of these companies are basically one company, and before the accident they were all run by the same person, who was CEO of every single one of the various companies. I think it has to be remembered that the same CEO is still there.

Senator **Lautenberg**. I would be inclined to share your view. That is, again, why I am particularly concerned if there is laxity or whatever word you want to use to describe the net poor result. If we are lucky enough to have a good manager out at Oyster Creek, terrific, but if the procedure is not such that there is constant monitoring, constant auditing of what is going on there, then we ultimately run a risk. This is a dangerous business, a productive one albeit, but there is some risk attached.

Commissioner **Bernthal**. Senator, I just comment that you put your finger on the logical cul-de-sac, I guess, that the Commission has worked itself into on this issue over the last 4 years or so. I agree with what Commissioner Asselstine said about the low-level management side, and I again would point to our January 27 decision which in effect dealt with two individuals at the very highest level of management.

My question would be a very simple one and that is whether it is in the end the job of the NRC to make those management decisions. Now we may not agree with the actions of the governing board in any facility but finally our job is to determine whether a given plant can be run consistent with the health and safety of the public. The logical inconsistency it seems to me in the double standard as you point out of never having seriously really considered the Oyster Creek question even though there may have been some concerns about it and still spending all of this time and effort on senior management as it relates to TMI is just absurd.

Senator **Lautenberg**. I would like to go on with something else if I might. I would like to ask any of the Commissioners for any conclusions that have drawn from the incident, if we could call it that, at Salem-1 in February of last year when circuit breakers failed to operate and the plant was shut down for 72 days. Did you learn any lessons from that case and are there any comments about structure, management, et cetera, that you want to make here? The incident involved PSE&G, the company with the largest number of subscribers in the State.

Chairman PALLADINO. Senator Lautenberg, we certainly did learn a lot of things from the Salem incident, among them being that more attention had to be given to the maintenance than had been given especially on this particular breakaway unit. Also, we discovered that aside from good management there had to be prevailing an attitude of intellectual curiosity because what happened in this particular situation is that there was called for an automatic scram and it was managed after the reactor was down but it was not the intellectual curiosity to look at the records they had to determine what had come first and why and I think that is an important thing, an important attitude to have in an operating organization, that you find out something is wrong and then you ask yourself why because that leads you to take corrective action.

So there were procedural changes and actual changes on maintenance programs, on the training of people and even an attempt to change the management attitude. Now the reason I say attempt is that you never know for sure whether you have changed it although I think there is a feeling that we have brought about some changes. But we have learned quite a bit from that, aside from the mechanics associated with the particular incident.

Commissioner ASSELSTINE. Sir, there are a couple other items I think we learned as well. One, the relationship between vendors—suppliers of equipment like breakers—and their customers, the utilities, is something that needs some additional attention to make sure that the proper maintenance instructions and manuals were supplied for the equipment.

The second thing we learned is to reemphasize the importance of keeping track of safety significant equipment, to make sure that it is properly cared for.

Finally, we need to assure that the people who do maintenance and other technicians in the plant are properly trained and that the work that they do is carried out in a way that won't negate safety systems in the plant.

My impression is that too little progress has been made in addressing these problems.

In terms of Public Service Electric & Gas, I went up to the plant very shortly after the Salem event. I was fairly impressed with a couple of efforts that they had underway and I gather that they have made some progress in most of these areas. For example, they brought their engineering support staff down to the site of the plant so that it could more effectively support people in the plant. by having the engineering and technical expertise right there.

Senator LAUTENBERG. Chairman Palladino, Hope Creek is out 80 percent at the PSE&G project. Are there any concerns that you have at this point? Do you have enough information about where they are in terms of schedule and expectation of startup?

Chairman PALLADINO. We will let Mr. DeYoung answer. Mr. DeYoung is director of the inspection and enforcement staff.

Mr. DEYOUNG. I spoke to region I people yesterday about the status of the Hope Creek plant and they said that it looks good, it is one of the better plants under construction in region I, that it is a little slower than they had hoped but they have the reputation of going slow on construction and they seem to correct them and build it right.

Senator LAUTENBERG. Mr. Chairman, before I use all the good will from my new association on this committee and from my esteemed colleague, thank you. I appreciate it. It was a pleasant experience and illuminating certainly, to use the expression of the industry, to hear the members of the Commission.

Senator SIMPSON. Thank you, Frank. Good having you as a member of the full committee.

Thank you.

Let me go back to some questions and then Senator Biden will be here and when he arrives I am going to accommodate him when that moment comes.

Back to the uranium mill tailings issue, and I think you sensed the frustration of Senator Domenici and it is shared by me, and admittedly a provincial one, at least I try to identify those when I get into them. The uranium industry is on the ropes and it is going to be on the ropes until we get the EPA and the NRC to sit down and talk.

I guess I will get right to the nub of things. Mr. Chairman, is it your intention to sit down with William Ruckelshaus and talk about some of these things that we continue to talk about in this place and that we talked about when I was here as a ranking member and Senator Hart has been asked the same questions at hearings on low level waste, on high level waste. At a high level waste place you can bet a buck that that deadline will slip and slip and slip. The uranium mill tailings, we have had radon, radium nuclei that are set dealing with situations which are so polarized and so absurd now that they reach the spectrum of two bright people in the same room literally talking about that if you touch the pile of uranium mill tailings you would die and others saying that if we feed it to the animals it strengthens and nourishes their bodies. Somewhere in the midst of all of that lies some truth.

When are we going to get out the word, the two of you—that is, if your counsel will allow the two of you to meet somewhere in some clandestine place where you and Bill Ruckelshaus will talk?

Chairman PALLADINO. Mr. Chairman, I wrote Mr. Ruckelshaus and have started our staff going to identify the issues and what needs attention and what does not and that has been going on. The staff level work has been going on over the last several weeks and I would think it is nearing the point where it is probably ready for my discussion with Mr. Ruckelshaus. I didn't ask the general counsel whether I could. I will not ask him, I will go ahead.

Mr. SIMPSON. They are going to find out.

Anyhow, I am an attorney and I love the profession and we have bright people there but it seems to me that they lost sight of what it is the American public expects of the NRC. The American public is being misled as to what the NRC does. They really believe that you sit down and talk about health and safety and they never would know that you are enmeshed in hearings and tons of paper that nobody reads and if something happened again with the Three Mile Island, I have a hunch it would be the same confusion. I am not laying that on you, I am laying it down where we would turn perhaps to Harold Denton again as someone to smooth our anxieties and try to let the American public know that the Congress knew what was going on and the NRC knew what was going on. What a strange situation it really is, absurd.

Yes, sir.

Commissioner ROBERTS. Could I tell you a story with your indulgence? You told the story of two people and what they did and so forth. What do you do when you are at Los Alamos and an engineer, and I am one, who is on the Federal payroll looks me in the eye and says, "Well, you know, uranium piles are no problem; the solution is you incinerate them." Do you know what is involved in incinerating a pile? Something like 1,800 degrees Fahrenheit? Have you ever seen the tailings? I am sure you have. I found that hard to deal with.

Senator SIMPSON. Well, I happen to come from a State that has lots of piles of uranium and I can tell you one thing, that those piles of mill tailings are sometimes less radioactive than the dirt in the sagebrush in which we find raw uranium resources. That I can tell you is the truth. So there is the absurdity when you have some old miner who knows more than all the wizards there when he can take his Geiger counter and run it out on the ground and find more in an area that has never been touched by a shovel than he can find in a mill tailing stack out at Riverton, Wyo.

And then to be told that there is no migration of ground water whatsoever and that that is the standard—none, there just is no way. We seek perfection in places where there is none, never will be, never has been. That is what makes it tough. If you never had it, how the hell do you ever get there?

So the EPA was given an enormous amount of flexibility by this Congress to do these things. We said to the EPA, here is flexibility, give them alternatives, and guess what. The EPA came up with no alternatives. Now that does not mean the NRC has to buy that. In your recommendations from your staff, why not go back to the statute when everything else fails? You don't have to buy the package from EPA when they have disregarded congressional intent, so now go back to the congressional intent. I mean that might be an extraordinary departure from some things, it seems to be more realistic.

Chairman PALLADINO. Unfortunately, we do go back to the statutes and the interpretation is that the statute tells us to follow the EPA regulation.

Senator SIMPSON. Well, look at section 20 and it says:

> The licensee may propose alternatives to specific requirements adopted and enforced by the Commission under the Act. They may take into account local or regional conditions including geology, topography, hydrology and meteorology. The Commission may treat such alternatives as satisfying Commission requirements,

And it goes on and on. So EPA did that first miscue but there is no reason for the continuation of it because it is against congressional intent. We will have to come back later on and do it again but that is the way it goes. As you may imagine, that is somewhat frustrating to those of us who spent a lot of time like Mo Udall and I did on this baby for I remember 9 months and then to have it all ignored by some wizard with a pen is a very vexing thing. I am certainly going to join with Senator Specter and others and begin to dig down through the administrative processes which are just paralyzing your agency and many others in this country.

Senator Biden, you have come upon the scene. Would you go ahead? It is nice to have you here.

Senator **Biden**. It is nice to be here.

With your permission, Mr. Chairman, I would like to enter in the record—I won't read it—a statement that I would like to make.

Senator **Simpson**. Without objection, so ordered.

Senator **Biden**. I have several questions, as a matter of fact six, but I will limit myself to two and I would like to submit the others for the record.

Senator **Simpson**. That will be fine.

Senator **Biden**. The Commission's annual safety report on Salem—and I understand Senator Lautenberg has spoken a little bit about Salem, my favorite electric powerplant in my area. The Commission's annual safety report on Salem, so-called SALP, gave the category of plant operations, the largest category evaluated, the lowest possible mark. Where do we stand now on Salem on that issue?

Chairman **Palladino**. I can make some introductory remarks and perhaps ask the members of the staff to identify further but the Salem event did cause us a great deal of concern and as I indicated to Senator Lautenberg we did learn a number of things from that incident; namely, the importance of maintenance and the fact that maintenance was not receiving the attention it should be receiving in some of these plants. Also, I found that there were significant areas lacking in the training of the individuals who operate the plant and I spoke about the intellects of curiosity of going in understanding what happened and then trying to figure out why so that you can take corrective action. I indicated I thought there had been significant improvements made in Salem in that regard. Referring to the members of the staff, they worked on that closely every day and can give you a little bit more background on that.

Richard DeYoung, Director of Inspection and Enforcement.

Mr. **DeYoung**. The review that we call the SALP report, it is the report we put out about once a year that rates the utility, the performance in about 10 distinct areas and the ratings are 1, 2, and 3. One means we can in our opinion reduce the inspection that we need to do, 2 means it is about right what we are doing and what the licensee is doing and 3, which is the highest rating but it means that we need increased attention, we would increase the inspection and hope to increase significantly the utilities' inspection in that same area. I can't remember the date of the last SALP report, I just can't recall.

Senator **Biden**. It was apparently dated November 17.

Mr. **DeYoung**. Of this past year?

Senator **Biden**. It was released in January.

Mr. **DeYoung**. If it was released in January, it is probably for the term that would include the events of last February so that would make it a reduced, a high number 3 rating for the area of operation so it would include those events of last February.

Senator **Biden**. I am told if I ask you the question I am about to ask you I will get one of your people in trouble so I will ask you off the record later what I was about to ask you.

Senator **Simpson**. We never bother with that here.

Senator **Biden**. Well, that's true.

Senator **Simpson**. I don't know why the hell we should do it now.

Senator **Biden**. Put it this way. There is some evidence that your outfit is dissatisfied with the Salem progress and that they are moving too slowly. Do you have any evidence of that?

Mr. **DeYoung**. I just spoke before you came in about Hope Creek. This facility has a reputation of being slower than we would hope it would be.

Senator **Biden**. Lousy I would put it but I really can't do that.

Mr. **DeYoung**. We have seen some progress. We would hope it would be more rapid. These things do not develop in a short period of time, it takes years to get them to where Salem has gotten itself and it takes a few years to get back.

Senator **Biden**. How many more years do you figure we have to wait?

Mr. **DeYoung**. One year has passed since they put out the order and we do see some progress, we are applying more pressure to get more rapid reforms done and I would expect to see more rapid improvement.

Senator **Biden**. What happens if we don't see more rapid improvement? What are you prepared to tell us?

Mr. **DeYoung**. I am also the Director of Enforcement and if we don't we would propose to the Commission additional enforcement in the form of orders to do certain things by a certain date and the Commission has all the authority and power that it needs to get things done properly.

Senator **Biden**. I am not being facetious when I ask this question, Mr. Chairman, but in light of the track record of that outfit why aren't you now ready? Why aren't you saying that outfit needs help? Why aren't you saying now what you just said you have the power to do and will do and that is set dates certain for certain things that have to be done?.

Mr. **DeYoung**. We may have additional records.

Senator **Biden**. Why aren't you doing that now?

I am serious. It really bothers me, I don't quite understand the way you all work. In the light of the safety record, why don't you say on a date certain this must be done within a reasonable time, what you consider reasonable? Why aren't you doing that?

Mr. **DeYoung**. We did put out an order to have certain things required to be done. One was a management audit of that corporation to see if they had the proper structure, the proper people. They had proceeded with that data, they hired a group called MAC, Management Analysis Corp. I was not responsible for monitoring this order and its progress and I don't know whether or not my colleague Harold Denton who is in charge of that order knows where they stand with respect to that.

Senator **Biden**. Is he here?

Mr. **DeYoung**. I know where we stand with respect to the inspection. We have seen progress, it has been slower than we had hoped but I think they are moving specifically on the point with management.

Senator BIDEN. In your opinion why can't they move faster? Don't they know how to move? Aren't they willing to make the commitment to move? Aren't they bright enough to move? Is it impossible to move faster? Why?

Mr. DEYOUNG. The management analysis that was done should have told them why they were not able to move faster and I don't know the details of that.

Senator BIDEN. Mr. Denton, would you comment on that?

Mr. DENTON. I can only add a little bit more with regard to Salem. The order we issued did have 3 to 34 long-term actions that they had to complete, including a number in the area of improving their attention to maintenance and the training of maintenance people. I understand they have completed all but 7 of the 34 actions. We are still awaiting a total overhaul of their maintenance program and I understand some of the same people are still in jobs that they have held. They have not completed moving their engineers down to the site. I am not aware of the current views of the NRC regional office on the progress that they have made, but they are complying with the order that we issued last summer that had dates and times in there. I think you are correct that they have not completely complied with last summer's order, but they are complying with the timetable that was set.

Senator BIDEN. Begging your indulgence Mr. Chairman, one more question and there won't be a followup.

Senator SIMPSON. All right.

Senator BIDEN. Commissioner Gilinsky, you were the only member of the Commission last spring who was opposed to the restart of the plant. In retrospect do you believe that your judgment was correct or incorrect?

Commissioner GILINSKY. I thought it was the right decision at the time.

Senator BIDEN. But now——

Commissioner GILINSKY. You have heard that, frankly, we have not followed up on Salem, nor have we gotten any reports on the management review that has taken place.

Senator BIDEN. That is a fair enough answer. I would not ask you to say any more and I will try to bring the problems at Salem back up on your scope for you.

Thank you very much.

Senator SIMPSON. Thank you, Joe. Appreciate it.

Senator BIDEN. Thanks a lot.

Senator SIMPSON. Yes, indeed.

Commissioner GILINSKY. If I could just follow that up.

Senator SIMPSON. Very swiftly.

Commissioner GILINSKY. When I made my opening statement, I said I thought the Commission ought to be paying a great deal more attention to the operating plants which are basically the principal responsibility of the Commission. The Commission should be getting a great deal more information on these plants and, particularly, their problems. The Commission should be getting regular reports on the operating plants. It does not do that and it spends time in other areas.

Chairman PALLADINO. We do get reports but many of them are written and we have to take time to read them.

Senator SIMPSON. I imagine they are very lengthy.

Senator BIDEN. It is a very big problem.

Commissioner BERNTHAL. I have to comment that the Commission in my 6 or 7 months there has met twice on an issue closely related to Salem and that is on the issue of the relays that were involved in the Salem incident and complete with machine drawings and blueprints of relays. But it is an interesting point that they have not met directly on the questions of management.

Senator BIDEN. Thank you, gentlemen.

Senator SIMPSON. Thank you.

I just have a few more questions if you will be patient. We don't do this often and it is good to share these things. I told you that there is a provincial interest because I represent a State that has really lost one of its principal industries and I don't know when it will recover because of what we do with regard to imports and that type of thing so you have heard Senator Domenici and I speak on that.

Let me ask you this. If the licensee can demonstrate that there are alternate means which will insure a level of protection that is equivalent to the level that would be achieved by the EPA's requirements such as the liner, does the NRC have the authority to approve those alternatives?

Chairman PALLADINO. Well, Mr. Chairman, it depends on what they are. Our attitude is always to work with the mill owners and the operators to try to provide as much flexibility as we can but if they were opening a new pile the regulations are pretty clear that we are to use synthetic liners. We have opinions about other alternatives and this is why we want to try to work out now with the EPA to see what flexibility we have.

Senator SIMPSON. Let's pick one then. Let's demonstrate the site specific factor such as the very thick layer of natural clay which would provide the same protection as a liner, would be NRC approved, that alternate approach, or do the EPA standards control requiring a liner for all new piles?

Chairman PALLADINO. Well, as I understand the interpretation of the law that we be required at the present time to require a synthetic liner. We do agree that there are alternatives that are equally good, maybe in the end it might even be better, and this is what we are trying to work out with the EPA.

Guy Cunningham.

Senator SIMPSON. Yes, sir.

Mr. CUNNINGHAM. Yes, sir.

Senator SIMPSON. You have equal time now, you can reply to me for all those smart cracks about lawyers.

Mr. CUNNINGHAM. I don't intend to do that, Senator. I will help the chairman respond to your question.

Senator SIMPSON. You have the chance, nothing would happen to you.

Mr. CUNNINGHAM. I appreciate the opportunity but I will stick with the question on the floor.

You earlier read the language in section 20 and it clearly said that the Commission may accept a utility proposed alternative if it is satisfied that that alternative will provide a level of protection equal to or more stringent than that achieved by standards adopted by the Commission or those adopted by the EPA. So the answer is, yes, we have legal authority and then it becomes a technical question, is the clay liner equivalent to the other one, or whatever the particular alternative you propose. So we have the legal authority. The answer to the question is that it depends on technical assessment.

Senator SIMPSON. I guess the maximum thing is that the EPA has gone ahead and required a liner, period, and then disregarded the language of the statute.

Mr. CUNNINGHAM. But the NRC under section 20 has the authority to accept an alternative to the EPA language. We have that authority.

Senator SIMPSON. OK. And you intend to exercise that on a case-by-case site specific basis?

Mr. CUNNINGHAM. That would be right.

Senator SIMPSON. Taking into consideration the geology, topography, hydrology and meteorology just like the statute says?

Mr. CUNNINGHAM. Just like the statute says, yes, sir.

Senator SIMPSON. That sounds fair enough. I like that idea. You got something there. Thank you very much.

Are there any other areas in your relationship with the EPA for the authority of EPA to promulgate genenal environmental standards and the authority of the NRC to promulgate the detailed technical regulations posed difficult problems in coordination?

Chairman PALLADINO. Yes, there are areas. Low level waste is another area. I think mill tailings pile waste will cause further questions. Generally they relate to dual regulation or jurisdictional issues.

I was saying, Senator Simpson, that there are other areas and they do relate to such topics as dual regulation, the jurisdictional question and even the schedule question and this is why I wanted some staff work done. You just don't sit there and talk similarities but rather know what the problem areas are.

Commissioner ASSELSTINE. I think also there are areas where the EPA standard, particularly the timing of an EPA standard, would be very helpful to us. One is on the decommissioning. I think in the Chairman's talk with Mr. Ruckelshaus it might be useful to identify those areas. It would be helpful not only where we have problems but where we think it would be helpful to get an EPA standard in a fairly short-term time schedule.

Senator SIMPSON. Just a couple more, please.

The temporary operating licenses, last year there was a great response. We requested Congress to extend the authority. Now if you could just briefly tell me where each of you stand on that issue. You have already mentioned yours, Mr. Chairman. Indicate to me whether you see a need for this authority based upon plants now coming in the pipeline and whether the recent licensing board decision in the Byron case affects the case for temporary operating license authority.

We have Mr. Asselstine pretty well on the record.

Mr. Gilinsky.

Commissioner GILINSKY. I don't see any need for the authority, Senator. In the past I approved, or recommended, restricting it, in any case, to the low power stage, but I think it is better for the Commission to function without it.

Senator SIMPSON. Mr. Chairman.

Chairman PALLADINO. I would like to make one comment with regard to the impact of Byron. Mr. Asselstine had indicated that he thinks it sort of undermines the need for a temporary operating issue. I don't believe that it does at all. The issues that were involved in the licensing board based on one of your decisions was the same issue that the staff was addressing. There was some mismatching timing on the reinspections and the like but the issues would have been addressed and we, even with authority to issue a temporary operating license, we would not proceed to license a plant if the staff had reservations on the plant, and I think it still did, and therefore I think the issues would have been taken care of. So I don't think that Byron necessarily changes the need for a temporary operating license, I think it is very valuable and necessary insurance.

Senator SIMPSON. Mr. Roberts.

Commissioner ROBERTS. I agree with the Chairman.

Senator SIMPSON. Mr. Bernthal.

Commissioner BERNTHAL. I think I made the comment earlier, Mr. Chairman, that I support the extension of the temporary operating license provision. I just add to that if one does not trust the NRC and its institutions, then one might well have reason not to trust our procedures. If you don't trust those procedures sufficiently to put a resource like a temporary operating license at our disposal, then probably we should not have that resource in case we need it. Otherwise, it seems to me it is useful insurance and provides us with a remedy in case of a powerplant that is otherwise ready to operate but for our procedures.

Senator SIMPSON. OK. Thank you.

One other. What is the status of the NRC efforts to comply with section 306 of the Nuclear Waste Policy Act? Now that is the area that addresses operator qualifications and simulated training. Now what steps have you taken to coordinate your efforts there with INPO, the Institute for Nuclear Power Operations, which in my mind has tried to make a conscious effort to restore credibility to the industry amid many who were not but I think they have acted responsibly, Bill Lee and others. What are you doing there?

Chairman PALLADINO. I was going to say we have several staff papers on the preparation on these items and some of them before. The staff has been working rather closely with INPO and I suggest that maybe you ask them to comment.

Mr. Dircks, Executive Director for Operations.

Mr. DIRCKS. We have prepared a set of proposals for the Commission under 306 and it is before the Commission now. In drawing those proposals together we have attempted to work very closely with INPO, using their resources as much as we can. We talk about training, we are relying very much on their accreditation procedures that they have worked so hard to develop. There is a concern in INPO, and I want to be frank about that, that they feel that the more NRC moves into the area of operating characteristics of facilities the more we might be discouraging INPO and the industry from doing many of these things themselves. We felt that in complying with section 306 we were trying to work a middle course between what the Congress told us to do and what INPO is doing. There are still discussions going on with INPO on this matter.

Senator SIMPSON. Well, I would hope so. I think you have to agree with what INPO has furnished to you in many cases has somewhat lessened your burden, is that not correct?

Mr. DIRCKS. Yes, sir.

Chairman PALLADINO. I believe that the staff has proposed that we adopt an INP0 accreditation program on training.

Commissioner ASSELSTINE. I believe there are two elements to the staff response. One is the rule, and I believe that rule does build very heavily on the INPO program. It sets out areas that have to be covered by the training program, the types of positions for which training programs have to be provided and it does require the utilities to come back with the schedule for setting up that kind of program, but I think the intention of the rule is to build on the INPO program. Basically if a utility is moving ahead with the INPO program, if it is committing to the schedule, then it satisfies the requirements of the regulation.

In addition to that, I think the staff has put together a fairly complex regulatory guide. It would be more constructive to talk about various elements of the program. I think that INPO's biggest concern is about that guide which sets out a lot of prestrictive elements, The principal concern they have is that some utilities can say, wait a minute, NRC is going to move into this area so we are going to wait and see what they come up with before we adopt the INPO program.

I think the INPO program is a sound one. I think we ought to be sensitive to that in terms of developing regulatory guides. As far as the regulation itself goes, my own personal view is that I think it would be useful to have a regulation both from the standpoint of committing utilities to meet a schedule and from the standpoint of having somebody enforcing it for those who don't meet a schedule.

Senator SIMPSON. I think it is important that you use what they have gathered as a guide and persistence.

The final question now, with the waste management bill, the one we worked so hard on and so many different philosophies and parties and now you are in the process of considering the DOE guidelines for the selection of a high level waste depository, what is the status of that effort and when does the Commission expect to be sending a decision back over to DOE?

Chairman PALLADINO. I will give a try at responding to the question, Mr. Chairman. At the present time there is under development the proposed questions relating to concurrence where we have the information. We have been looking at it and have been discussing it with each Commissioner to get their viewpoints. Of course, I was under the weather when they came around so I had that scheduled for later today, but we need to get our—I will call it a concurrence document which I am sure will have some caveats on it and we will get that approved by the Commission for publication or for public comments. In an earlier order the Commission had indicated that it was going to involve two weeks, their comments on this proposed document. Then of course once you get the comments you have to outline them and then there is revision in the concurrence document and then you have to develop that revision. The target is to try to get that accomplished by the end of April of this year.

Senator SIMPSON. The target?

Chairman PALLADINO. The target.

Senator SIMPSON. Do you think that will come in at that time?

Chairman PALLADINO. I think by the end of April there is a chance.

Senator SIMPSON. Why not change the target and tell us what it is? August?

Chairman PALLADINO. The problem is that one never knows when one starts on a system like this whether or not you can complete it. We will certainly put the pressure on to complete it by the end of April.

Senator SIMPSON. Well, I think that is important because again the public perception is that we did something about nuclear waste, permanent storage or retrievable storage for the first time in 35 years and they are going to find out again that that ain't the case. So, you know, that is not really part of this perception, perception, perception but the public really would be disgruntled if this did not all come to pass.

Chairman PALLADINO. I think it is very important that we give attention in responding to this process to making sure that we have good guidelines so that when our decisions are made we don't have to retract them.

Senator SIMPSON. I appreciate your keeping in touch. I want to thank you. Sometimes I come on, and on occasion, sometimes sarcastically which is not meant personally, it comes from frustration—and frustration in myself and my own failing—but I want to commend you. You do labor long with great loyalty and unselfishness. Maybe we don't give you the right tools or the ones we have given you have been blunted by I think an overly cautious staff, I really do, a tentative staff, maybe unwilling to allow creativity and discussion and just one of our ordeals.

It is good for me to hear you this morning talking and disagreeing with each other—I mean that. I hate groups that say, we have to come out of here with unanimous decision. I say, you better get me off the hook because that is not any way I choose to function because disagreement is good and it is important and that is what differs us from all other forms of government in the world. So I hope you will use your remarkable divergencies and philosophies to sharpen the issues as you can and you should and cross pollinate and kick it around and agree or argue or communicate or something and don't listen to all the doomsdayers that say you can't meet unless it is under certain conditions. Let somebody sue you and find out, keep them busy over there.

Chairman PALLADINO. Well, we have the court decision now.

Senator SIMPSON. Well, try it again. If it keeps you busy, you can get on with your talking then.

Chairman PALLADINO. No, to be effective we better stay out of jail.

Senator SIMPSON. My father was a practicing lawyer and he taught me marvelous things. He said, whenever anyone goes to jail, be sure it is your client.

I make those cracks about lawyers but let me tell you this, and I am one and I was very proud of the profession, but let us not forget one of the rules of civil procedure says and that is, "A speedy and just determination of rights." That is what we took our oath on, all of us that practice law, a speedy and just determination of rights. That is right at the top of every rule of civil procedure.

Why not? When do we get back to that? And it works just as well here as it works out there when you are representing a poor old client wandering around in the wilderness. That is the oath and I hope we get back to that.

I want to say right now that I intend to meet and I am going to have Jim arrange it for our meeting with the senior legal staff of the NRC—secretly—and I am going to let them just whale away on me and then they can go public on that. But here I am talking about communication and I make some pretty harsh comments. So you will be contacted and we will have lunch or we will visit and see where we go with that.

Chairman PALLADINO. Mr. Chairman, it is very frustrating not to be able to have the Commission sit down and discuss issues. For example, we wanted to get together to discuss what the various steps are in the proceeding and you would have thought there was a cast on that and a decision has come out that says we cannot do it. I think perhaps there is some room for examining the Sunshine Act to permit a body such as this in trying to issue its decision because if you try to do it in public and you make a statement you feel sort of obligated to stick with it more than you would in a give and take in a more personal exchange that you would have.

Senator SIMPSON. Well, it must be very frustrating, it must be tenfold more than what it is for us because I can go to any one of my colleagues at any time and visit about anything and do it often. If I didn't have that opportunity, I would go bonkers in this place, and it is always good to visit with you individually and I enjoy that opportunity. I admire what you do but unless we do it the way people think it is being done, we are going to redo it. They can go bring all the lawsuits they want, whoever these nameless persons are, and in the course of it will cripple their own protection and safety and health. That is going to be the full irony of it.

So thank you very much for your attendance.

Chairman PALLADINO. Thank you.

Senator SIMPSON. We are adjourned.

[Whereupon, at 12:35 p.m. the committee adjourned to reconvene at the call of the Chair.]

[Statements submitted for the record and responses to written questions follow:]

PREPARED TESTIMONY
SUBMITTED BY

NUNZIO J. PALLADINO, CHAIRMAN
U. S. NUCLEAR REGULATORY COMMISSION
FY 1985 Budget Statement

Mr. Chairman, it is a pleasure to be back with you to discuss NRC's budget request. With me today are the other members of the Commission: Commissioners Gilinsky, Roberts, Asselstine and Bernthal. With us also is the Executive Director for Operations, Mr. William Dircks, and the Directors of the principal offices of the Commission.

Overview of Budget Request

First, I would like to provide the Subcommittee with an overview of our budget request. The principal thrust of our fiscal year 1985 budget request is to enable us to regulate nuclear materials and facilities -- particularly the operation and construction of nuclear power plants -- so that our licensees provide adequate protection of the public health and safety.

IN FY 1984, WE CURRENTLY HAVE AN OPERATING BUDGET OF $478.0 MILLION -- $465.8 MILLION IN NEW AUTHORITY AND $12.2 MILLION IN CARRYOVER FUNDS. FAVORABLE ACTION ON A PAY RAISE SUPPLEMENTAL OF $2.1 MILLION WOULD INCREASE THIS TO $480.1 MILLION. OUR REQUEST FOR FY 1985 IS FOR $468.2 MILLION, A SMALL DECREASE FROM THE CURRENT YEAR. OUR FY 1985 REQUEST FOR PERSONNEL RESOURCES IS 75 FULL-TIME EQUIVALENTS (FTES) ABOVE OUR FY 1984 CEILING.

TO PUT OUR DISCUSSION INTO CONTEXT, I HAVE PROVIDED A CHART, DESIGNATED CHART NO. 1, THAT SHOWS OUR TOTAL OBLIGATIONS BY FISCAL YEAR AND HOW THOSE OBLIGATIONS HAVE BEEN ERODED BY INFLATION SINCE FY 1975 -- OUR FIRST BUDGET YEAR. THE UPPER CURVE IN THIS CHART SHOWS THAT IN ACTUAL DOLLARS OUR BUDGET HAS REMAINED ESSENTIALLY FLAT SINCE FY 1981 -- FOLLOWING A SHARP RISE DURING THE PRIOR YEARS. HOWEVER, AS SHOWN BY THE LOWER CURVE IN THE CHART, IN CONSTANT FY 1975 DOLLARS OUR BUDGET HAS DROPPED GRADUALLY SINCE FY 1981.

I NOW WANT TO DISCUSS HOW WE ACCOMMODATED INTERNAL CHANGE, SUCH AS INCREASED INSPECTION EFFORTS, DURING A PERIOD OF RELATIVELY FLAT DOLLAR BUDGETS. FUNDING INCREASES WERE ACCOMMODATED PRIMARILY BY CUTTING OUR RESEARCH EFFORT. IF YOU WOULD REFER TO CHART NO. 2 YOU CAN SEE THAT, BOTH IN ACTUAL DOLLARS (THE UPPER CURVE) AND IN CONSTANT DOLLARS (THE LOWER CURVE), THE RESEARCH BUDGET HAS DECLINED SINCE FY 1981. PRIOR TO THAT, THE RESEARCH BUDGET FOLLOWED THE GENERAL GROWTH OF THE AGENCY BUDGET.

THE ECONOMIES THAT WE HAVE MADE IN THE RESEARCH BUDGET FALL INTO THREE CATEGORIES:

-- FIRST, WE HAVE TRIED TO INCREASE THE COST-EFFECTIVENESS OF OUR RESEARCH ACROSS THE BOARD BY CAREFULLY FOCUSING EACH PROGRAM AREA ON MEETING REGULATORY NEEDS IDENTIFIED IN OUR ANNUAL LONG-RANGE RESEARCH PLAN AND ELIMINATING PROJECTS THAT MAKE MARGINAL CONTRIBUTIONS TO SUCH NEEDS.

-- SECOND, WE ARE GETTING OUT OF THE BUSINESS OF OWNING OR BEING THE SOLE SPONSORS OF LARGE RESEARCH FACILITIES SUCH AS LOFT.

-- THIRD, WE HAVE BEEN SUCCESSFUL IN ESTABLISHING COOPERATIVE RESEARCH PROJECTS WITH THE ELECTRIC POWER RESEARCH INSTITUTE, FOREIGN COUNTRIES, AND U.S. INDUSTRY. THIS BROADENS BOTH THE COST BASE AND TECHNICAL BASE OF OUR RESEARCH PROGRAM.

WE HAVE CUT OUR RESEARCH BUDGET AS FAR AS WE CAN AND STILL CARRY OUT NEEDED WORK. THE LOWER CURVE ON CHART 2 SHOWS THAT OUR PROJECTED FY 1985 RESEARCH BUYING POWER IS APPROXIMATELY THE SAME AS WHEN THE AGENCY STARTED IN FY 1975, YET IMPORTANT QUESTIONS REQUIRING RESEARCH FOR ANSWERS HAVE BECOME MORE COMPLEX. A WELL-FOCUSED AND EFFECTIVE RESEARCH PROGRAM MUST BE MAINTAINED BECAUSE IT PROVIDES THE TECHNICAL BASIS ON WHICH TO IMPROVE OUR LICENSING AND INSPECTION PROGRAMS AND TO MAKE REGULATORY DECISIONS.

OUR BUDGET THIS YEAR INCLUDES A MODEST INCREASE IN STAFF FOR FY 1985 BECAUSE WE BELIEVE THAT THERE IS LITTLE ROOM LEFT FOR FURTHER INTERNAL REALLOCATIONS. IF YOU WOULD REFER TO CHART NO. 3, YOU CAN SEE THAT, BASED ON YEAR-END STRENGTH, THE STAFF GREW BY ABOUT 1300 PERSONS BETWEEN FY 1975 AND FY 1981. APPROXIMATELY HALF OF THAT GROWTH FOLLOWED THE ACCIDENT AT THREE MILE ISLAND, UNIT 2. USING THE MORE RECENT MEASURE OF NUMBERS OF STAFF, FULL-TIME EQUIVALENTS (FTES), THERE HAS BEEN A MODEST DECLINE BETWEEN FY 1982 AND FY 1984. THE INCREASE OF 75 FTE FOR FY 1985 IS NEEDED TO HELP DEAL WITH OUR STEPPED UP INSPECTION EFFORTS AND OUR INCREASED RESPONSIBILITIES UNDER THE NUCLEAR WASTE POLICY ACT.

RUNNING COUNTER TO THE FLAT BUDGETS, DEMANDS ON NRC STAFF HAVE INCREASED SIGNIFICANTLY SINCE FY 1981 -- ESPECIALLY AS UTILITIES ENDEAVORED TO COMPLETE THE CONSTRUCTION OF THEIR PLANTS AND READY THEM FOR OPERATION. THE NRC HAS ENCOUNTERED MANY PROBLEMS THAT REQUIRE CAREFUL AND REPEATED INSPECTIONS OR LICENSING REVIEWS.

In general, we are finding that we must exercise significantly more oversight to ensure compliance with health and safety regulations. Rather than remaining primarily in a reactive mode, we prefer to be able to identify and correct problems early, ideally before they become severe. While identifying and correcting these problems require more of our resources, I believe these resources will be well spent if we can prevent the more expensive large problems.

The experience of the past few years and the outlook for the future have convinced the Commission to increase resources for inspection of reactors, vendors, contractors and suppliers. The Commission has also increased staff and funding to fulfill its responsibilities under the Nuclear Waste Policy Act of 1982. Our goal is to assure that our requirements and those of the Act that pertain to NRC are met and to avoid unnecessarily delaying the national radioactive waste program being implemented by the Department of Energy.

WHILE WE HAVE BEEN ABLE TO REALLOCATE SOME STAFF FROM LICENSING EFFORTS, THIS OPTION IS LIMITED BECAUSE THE LICENSING LOAD HAS NOT DROPPED AS FAST AS ONE MIGHT HAVE EXPECTED BASED ON THE UTILITIES' START-UP SCHEDULES. PLANTS TROUBLED WITH CONSTRUCTION OR START-UP PROBLEMS MAKE IT NECESSARY TO STRETCH OUT THE LICENSING PROCESS. THE ADDITIONAL NRC ANALYSES REQUIRED TO RESOLVE THESE PROBLEMS ADD TO THE LICENSING WORKLOAD.

NRC'S PROGRAMS ARE NOT OF A DISCRETIONARY NATURE. THEY ARE CRITICAL TO OUR REGULATORY MISSION. OUR CAPACITY TO ANSWER TECHNICAL QUESTIONS, TO RESOLVE EXPEDITIOUSLY A MYRIAD OF ENGINEERING ISSUES, AND TO ASSURE PROPER COMPLETION AND SAFE OPERATION OF NUCLEAR PLANTS IS SEVERELY STRAINED. ALTHOUGH WE BELIEVE OUR PROGRESS IN IMPROVING THE REGULATORY PROGRAM IS ENHANCING SAFETY, INCIDENTS CONTINUE TO OCCUR IN NUCLEAR POWER GENERATION. IT IS ESSENTIAL THAT ADEQUATE FUNDING AND STAFF BE PROVIDED TO ENABLE NRC TO DISCHARGE FULLY ITS RESPONSIBILITY TO ENSURE THAT THE PUBLIC HEALTH AND SAFETY IS ADEQUATELY PROTECTED.

MR. CHAIRMAN, I WILL NOW TOUCH ON SEVERAL TOPICS OF SPECIAL INTEREST TO THE NRC. THESE ARE LICENSING REFORM, TEMPORARY OPERATING LICENSES, EMERGENCY PREPAREDNESS, TMI-2 CLEANUP, AND THE CONTINUING NEED FOR CONSOLIDATION.

LICENSING REFORM

ENACTMENT OF A LICENSING REFORM BILL ALONG THE LINES OF THAT PROPOSED LAST YEAR BY THE NRC COULD CONTRIBUTE MUCH NEEDED STABILITY TO THE NUCLEAR LICENSING PROCESS. WHILE LICENSING REFORM IS BY NO MEANS A CURE-ALL FOR THE PROBLEMS CONFRONTING NUCLEAR POWER IN THE U.S., IT WOULD BE USEFUL TO ESTABLISH NOW, BY LAW, A STABLE FRAMEWORK WITHIN WHICH FUTURE NUCLEAR INDUSTRY PLANNING CAN TAKE PLACE. SEVERAL FEATURES OF THE NRC BILL ARE KEY TO MEANINGFUL LICENSING REFORM:

o STANDARDIZED DESIGN. LEGISLATION WOULD BE HELPFUL IN PROVIDING THE STABILITY THAT WOULD ENCOURAGE THE SUBMISSION OF STANDARDIZED NUCLEAR POWER PLANT DESIGNS.

THE GOAL IS THAT ESSENTIALLY COMPLETE DESIGNS COULD BE REVIEWED AND APPROVED BEFORE AN APPLICATION FOR A CONSTRUCTION PERMIT HAS BEEN FILED. IT IS IMPORTANT THAT APPROVAL OF SUCH A DESIGN BE VALID FOR A SUFFICIENTLY LONG TIME TO PROVIDE STABILITY. THAT TIME SHOULD BE APPROXIMATELY TEN YEARS, WITH RENEWALS FROM FIVE TO TEN YEARS AT THE DISCRETION OF THE COMMISSION.

EARLY SITE REVIEW. LEGISLATION WOULD ALSO ENCOURAGE THE SUBMISSION OF PROSPECTIVE SITES FOR NUCLEAR POWER PLANTS THAT COULD BE APPROVED BEFORE AN APPLICATION FOR A CONSTRUCTION PERMIT IS FILED. APPROVAL OF SUCH A SITE SHOULD BE VALID FOR APPROXIMATELY TEN YEARS, WITH RENEWALS FROM FIVE TO TEN YEARS AT THE DISCRETION OF THE COMMISSION.

COMBINED CONSTRUCTION PERMIT AND OPERATING LICENSE. IN ORDER TO ENHANCE STABILITY BY REQUIRING THE PRESENTATION

AND RESOLUTION OF AS MANY ISSUES AS POSSIBLE EARLY IN THE LICENSING PROCESS, LEGISLATION SHOULD AUTHORIZE ISSUANCE OF A COMBINED CONSTRUCTION PERMIT AND OPERATING LICENSE. IN PARTICULAR, A SECOND HEARING PRIOR TO COMMENCEMENT OF OPERATION SHOULD BE LIMITED TO ISSUES THAT WERE NOT AND COULD NOT BE HAVE BEEN CONSIDERED AND DECIDED AT EARLIER STAGES.

- OTHER EXPLICIT AUTHORITIES. LEGISLATION SHOULD PROVIDE EXPLICIT AUTHORITY TO CONDUCT HYBRID HEARINGS, TO DELEGATE NEED FOR POWER DECISIONS TO THE STATES, AND TO CONSIDER ECONOMIC FACTORS, IN LICENSING AND REGULATORY DECISIONS.

TEMPORARY OPERATING LICENSE AUTHORITY

ALTHOUGH NO APPLICANT REQUESTED A TEMPORARY OPERATING LICENSE FOR A NUCLEAR POWER PLANT PRIOR TO DECEMBER 31, 1983, WHEN NRC'S AUTHORITY TO ISSUE SUCH A LICENSE EXPIRED, THE POTENTIAL FOR

LICENSING DELAYS, WHICH LED TO THE AUTHORITY PROVIDED IN PUBLIC LAW 97-415, CONTINUES TO EXIST TODAY.

THE COMMISSION BELIEVES THAT IT WOULD BE DESIRABLE TO EXTEND ITS AUTHORITY TO ISSUE TEMPORARY OPERATING LICENSES. OUR RECOMMENDATION IS MADE WITH THE CLEAR UNDERSTANDING THAT SUCH AUTHORITY WOULD BE EXERCISED SPARINGLY AND ONLY WHEN IT IS CLEARLY DEMONSTRATED TO THE COMMISSION THAT OPERATION WOULD INVOLVE NO UNDUE RISK TO THE PUBLIC HEALTH AND SAFETY.

IN THE COMMISSION'S VIEW, THIS AUTHORITY IS AN IMPORTANT TOOL FOR DEALING WITH SITUATIONS THAT MIGHT ARISE WHERE CONSTRUCTION GETS AHEAD OF OUR SCHEDULE. THERE ARE A LARGE NUMBER OF PLANTS NOW IN THE LAST STAGES OF CONSTRUCTION. THE COMMISSION HAS NO WAY OF CONTROLLING THE PACE OF CONSTRUCTION. JUST AS ITS EARLIER PREDICTIONS OF SIGNIFICANT DELAYS WERE LARGELY ERASED BY REVISED CONSTRUCTION SCHEDULES, THE OPPOSITE MAY ALSO OCCUR. IT IS CONCEIVABLE THAT IN THESE CASES LICENSING DELAYS COULD OCCUR.

The authority to issue temporary operating licenses would be a useful tool in such an event.

Commissioners Gilinsky and Asselstine do not believe there is a need to extend the temporary operating license provision.

Emergency Preparedness

Following the 1979 accident at Three Mile Island, the NRC initiated a comprehensive program for upgrading emergency preparedness at all commercial nuclear power plants. The current rules on emergency planning have encouraged the utilities to work more closely than ever before with State and local emergency response organizations, resulting in a much higher state of emergency preparedness than that which previously existed. Interestingly, the emergency preparedness progress has also raised new questions for offsite authorities as well as resolving old ones. Two important new questions are whether State or local

GOVERNMENTS HAVE AN OBLIGATION TO PARTICIPATE IN EMERGENCY PLANNING, AND, IN THE ABSENCE OF STATE OR LOCAL GOVERNMENT PARTICIPATION, WHETHER A LICENSEE HAS THE LEGAL AUTHORITY TO CARRY OUT PROPOSED ACTIONS THAT NORMALLY WOULD BE HANDLED BY STATE OR LOCAL GOVERNMENTS IN AN ACTUAL EMERGENCY.

IN PRINCIPLE, THE COMMISSION BELIEVES THAT FAILURE OF A STATE OR LOCAL GOVERNMENT TO PLAN, OR TO IMPLEMENT PLANS, SHOULD TRIGGER A REQUIREMENT THAT OTHER ALTERNATIVES FOR PROTECTION OF THE PUBLIC BE CONSIDERED. IT IS THEREFORE IMPORTANT FOR THE SUBCOMMITTEE TO PRESERVE THE LANGUAGE IN LAST YEAR'S AUTHORIZATION BILL THAT PERMITS THE COMMISSION TO ISSUE AN OPERATING LICENSE FOR A NUCLEAR POWER REACTOR, IF IT DETERMINES THAT THERE IS EXISTS A STATE, LOCAL OR UTILITY PLAN WHICH PROVIDES REASONABLE ASSURANCE THAT PUBLIC HEALTH AND SAFETY IS NOT ENDANGERED BY OPERATION OF THE FACILITY.

IT IS ALSO IMPORTANT FOR THE SUBCOMMITTEE TO WORK WITH FEMA AND NRC TO COME UP WITH A SOLUTION TO THE PROBLEM OF LEGAL AUTHORITY IN THE ABSENCE OF STATE OR LOCAL GOVERNMENT PARTICIPATION. A POSSIBLE APPROACH WOULD BE TO MAKE AVAILABLE FEDERAL RESOURCES IF A GOVERNOR REQUESTED THEM.

THREE MILE ISLAND UNIT 2 CLEANUP

AT TMI-2, MUCH OF THE RADIOACTIVITY THAT WAS DISPERSED WITHIN THE PLANT DURING THE ACCIDENT HAS BEEN IMMOBILIZED, PACKAGED AND SHIPPED OFF-SITE FOR ULTIMATE DISPOSITION. HOWEVER, THE MOST DIFFICULT TASK, DEFUELING, HAS NOT YET BEGUN.

CLEANUP OF THE REACTOR BUILDING ITSELF HAS PROVEN TO BE UNEXPECTEDLY DIFFICULT BECAUSE OF RECONTAMINATION PROBLEMS AND HIGH RADIATION LEVELS FROM FIXED SOURCES OF RADIATION. THESE PROBLEMS HAVE BEEN CAUSED IN PART BY DELAYS IN THE CLEANUP EFFORT. ADDITIONALLY, THE ORIGINAL SCHEDULES FOR POLAR CRANE

REQUALIFICATION AND REACTOR VESSEL HEAD LIFT HAVE BEEN DELAYED BY AT LEAST A YEAR, PARTIALLY AS A RESULT OF THE INVESTIGATION OF ALLEGATIONS BY FORMER AND CURRENT GPU AND CONTRACTOR EMPLOYEES CONCERNING ADMINISTRATIVE AND PROCEDURAL DEFICIENCIES IN CLEANUP ACTIVITIES.

THE UTILITY ESTIMATES THAT DURING CALENDAR YEAR 1984 ONLY $75 MILLION WILL BE AVAILABLE FOR CLEANUP ACTIVITIES. ALTHOUGH THE EDISON ELECTRIC INSTITUTE HAS SOUGHT VOLUNTARY PLEDGES FROM MEMBER UTILITY COMPANIES TO CONTRIBUTE TO TMI-2 CLEANUP FUNDING, PLEDGES HAVE NOT REACHED THE $100 MILLION LEVEL REQUIRED BEFORE ANY DISBURSEMENTS CAN BE MADE. THE INTERNAL REVENUE SERVICE RECENTLY RULED THAT DOMESTIC UTILITIES WILL BE PERMITTED TO WRITE OFF CONTRIBUTIONS TOWARD THE TMI-2 CLEANUP AS A BUSINESS EXPENSE. THIS RULING COULD ENCOURAGE ADDITIONAL CONTRIBUTIONS. IN ADDITION, JAPANESE POWER COMPANIES HAVE TENTATIVELY AGREED TO CONTRIBUTE $18 MILLION TO RESEARCH AND DEVELOPMENT ASPECTS OF THE CLEANUP EFFORT.

These recent events hold some promise of help for the utility's efforts to secure committed funding for future cleanup activities. However, they do not provide much confidence that the approximately $600 million effort still remaining will be adequately funded or expeditiously completed. Given the existing funding uncertainties and the formidable technical problems that the utility must overcome, the Commission has serious reservations about GPU meeting their current schedule for completing fuel removal in 1986.

While we believe that adequate protection of public health and safety is currently being maintained, the Commission is concerned about the slow pace of the cleanup, primarily because of the increasing potential for unforeseen problems arising. The Commission believes it may be time for the Congress and the Executive Branch to consider new approaches. I personally believe that an approach similar to that used at the West Valley site should be considered. In the meantime, within NRC's legal

AUTHORITY, THE COMMISSION AND ITS STAFF WILL CONTINUE TO PLACE A HIGH PRIORITY ON TMI-2 AND MONITOR CLOSELY THE LICENSEE'S ACTIVITIES IN ORDER TO HELP BRING ABOUT A SAFE AND EXPEDITIOUS CLEANUP.

CONTINUING NEED FOR CONSOLIDATION

ONE VEXING PROBLEM FOR THE COMMISSION IS CONDUCTING BUSINESS FROM ELEVEN WIDELY SCATTERED LOCATIONS IN WASHINGTON, ROCKVILLE, SILVER SPRING AND BETHESDA. SINCE THE BEGINNING OF THE NRC IN 1975, THE COMMISSION HAS NOT HAD THE BENEFITS OF CLOSE PROXIMITY TO ITS TECHNICAL STAFF. WE SPEND MUCH MONEY AND TIME GOING BACK AND FORTH BETWEEN OUR VARIOUS LOCATIONS, WITH RESULTING INEFFICIENCIES. NUMEROUS STUDIES, INCLUDING ONE DONE MOST RECENTLY BY THE GRACE PANEL, RECOMMEND CONSOLIDATION OF NRC HEADQUARTERS TO IMPROVE OPERATING EFFICIENCY AND REDUCE COSTS. BECAUSE OF FACILITY INADEQUACIES AND HIGH MAINTENANCE COSTS, WE HAVE BEEN ASKED BY THE GENERAL SERVICES ADMINISTRATION TO MOVE

THE COMMISSIONERS' AND STAFF OFFICES OUT OF THE MATOMIC BUILDING IN DOWNTOWN WASHINGTON WHEN THE LEASE RUNS OUT NEXT YEAR. SOME OTHER BUILDINGS WE NOW OCCUPY IN SUBURBAN MARYLAND HAVE SIMILAR PROBLEMS, AND GSA STAFF HAVE INDICATED THAT THEY WILL BE LOOKING FOR ALTERNATIVES TO OUR CURRENT CONFIGURATION, PARTICULARLY FOR TWO BUILDINGS WHOSE LEASES EXPIRE IN 1986. HOWEVER, GSA HAS NOT TOLD US WHERE WE COULD RELOCATE AND HOW SUCH RELOCATIONS COULD HELP FULFILL OUR NEEDS TO CONSOLIDATE. WE URGENTLY NEED TO CONSOLIDATE, BUT WE HAVE NO BUILDING IN WHICH TO DO SO. IN THE PROCESS OF CONSOLIDATION WE CAN MORE EASILY MEET THE NEW GSA REQUIREMENTS FOR SPACE REDUCTION.

WE UNDERSTAND THAT NEWLY BUILT BUT UNFILLED OFFICE SPACE EXISTS DOWNTOWN. CONGRESS HAS SAID THAT THE COMMISSIONERS MUST REMAIN IN DOWNTOWN WASHINGTON. WE SHARE THIS VIEW, AND WE ARE PREPARED TO CONSIDER GSA PROPOSALS TO MEET THIS OBJECTIVE. OUR OPTIONS APPEAR TO BE (1) A SINGLE 1/2 MILLION SQUARE FOOT BUILDING DOWNTOWN OR (2) A SMALLER BUILDING DOWNTOWN FOR HALF OF OUR STAFF

AND ANOTHER IN BETHESDA FOR THE REST. OF THESE TWO OPTIONS, WE WOULD PREFER THE FIRST BECAUSE IT PERMITS COMPLETE CONSOLIDATION NOW. THE SECOND OPTION WOULD NOT CONSOLIDATE US FULLY AND MUST BE VIEWED AS AN INTERIM MEASURE.

THE SUBCOMMITTEE'S CONTINUED SUPPORT IS URGENTLY NEEDED TO GET THIS MATTER RESOLVED AS SOON AS POSSIBLE. WE MAY ALSO NEED YOUR HELP LATER IF INTERESTS ARE BROUGHT TO BEAR THAT COULD DELAY OR PREVENT CONSOLIDATION.

CONCLUDING REMARKS

THIS COMPLETES MY ORAL PRESENTATION, MR. CHAIRMAN. THE DETAILS OF OUR BUDGET REQUEST ARE CONTAINED IN OUR BUDGET SUBMISSION, WHICH HAS ALREADY BEEN PROVIDED TO THE SUBCOMMITTEE. THE ANSWERS TO THE QUESTIONS ENCLOSED IN YOUR FEBRUARY 9, 1984 LETTER OF INVITATION ARE ATTACHED. AT THIS TIME, WE WOULD BE PLEASED TO ANSWER ANY QUESTIONS YOU MAY HAVE.

CHART 1

NRC TOTAL OBLIGATIONS

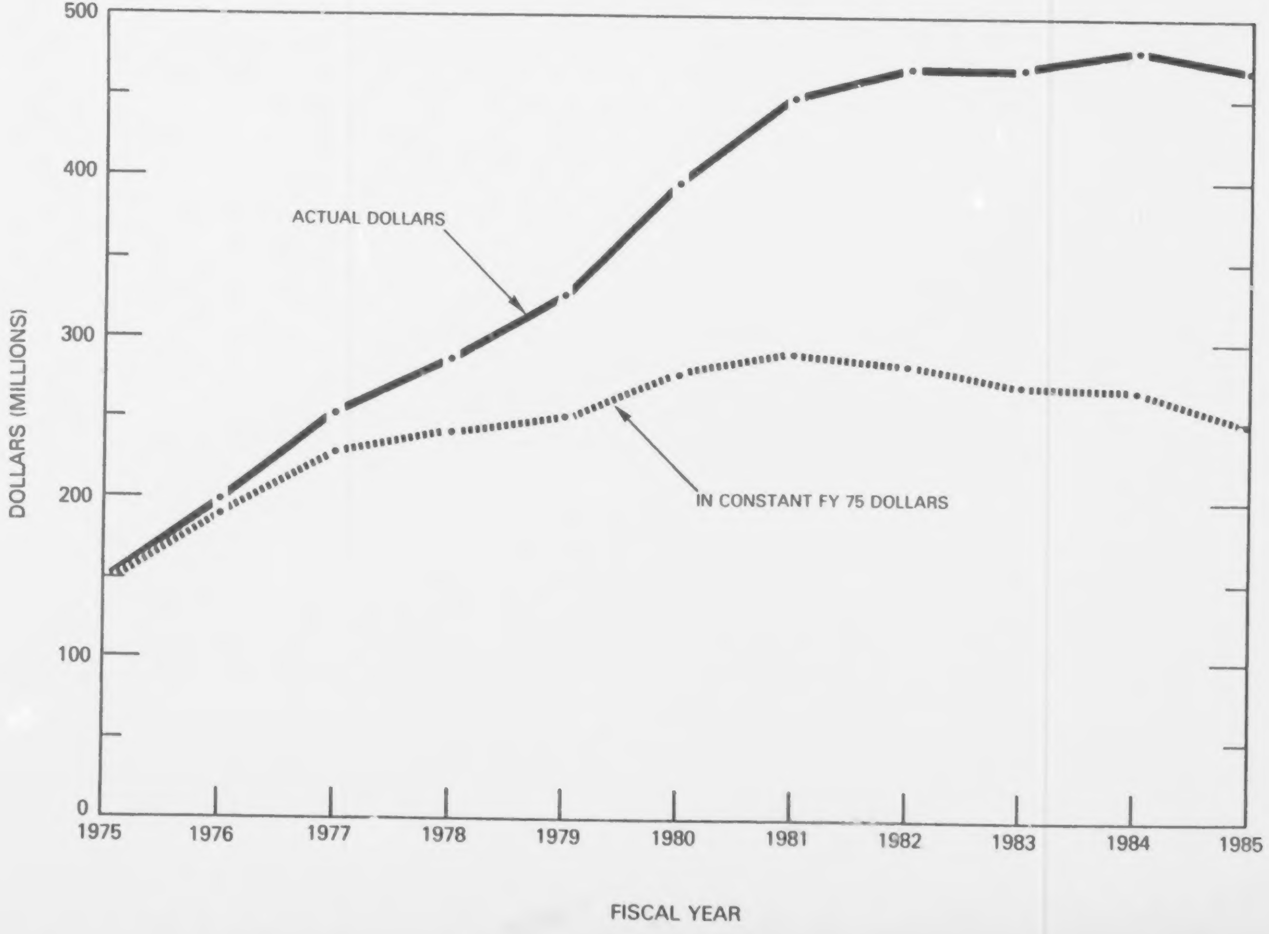


CHART 2

NRC RESEARCH TOTAL OBLIGATIONS

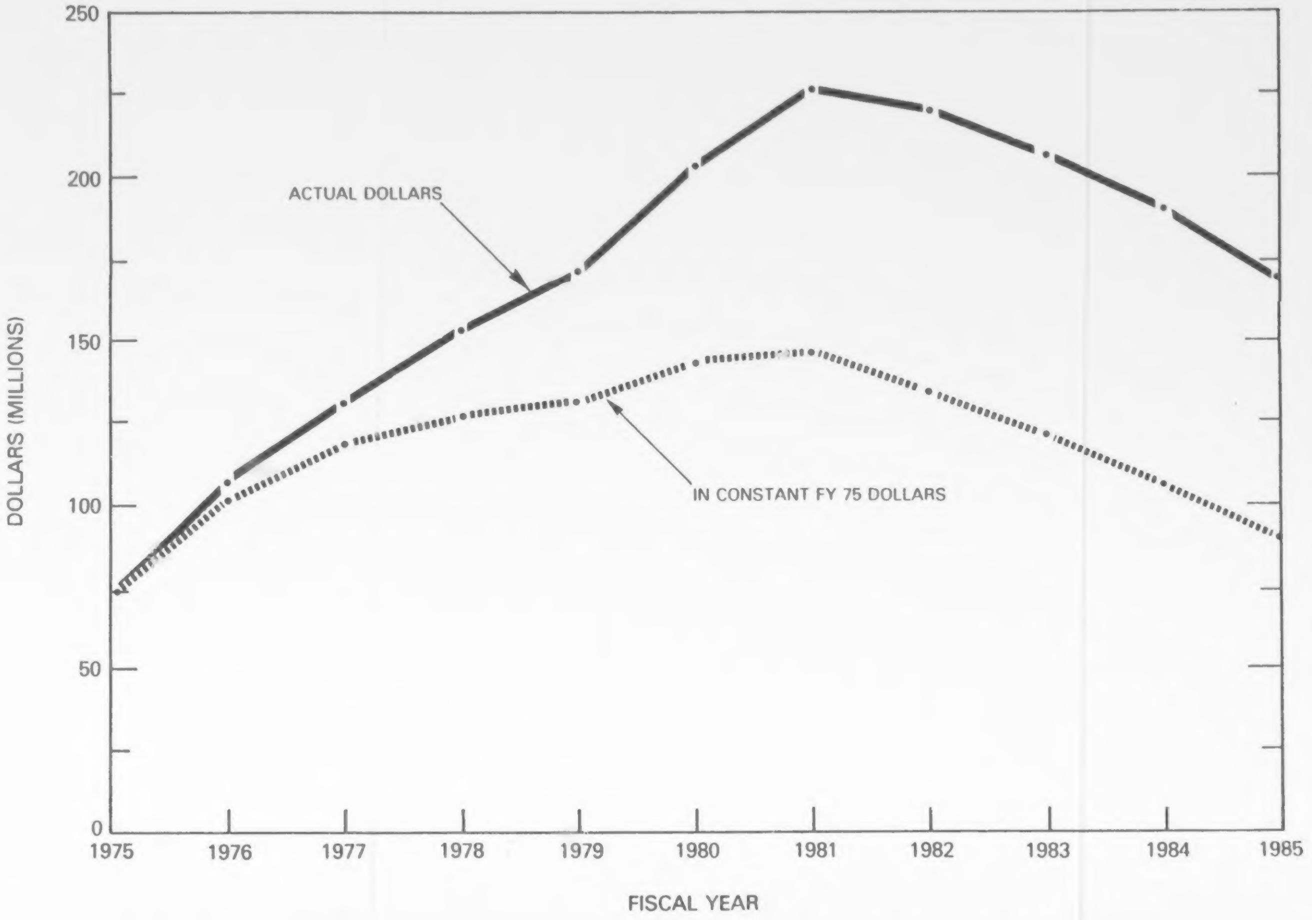
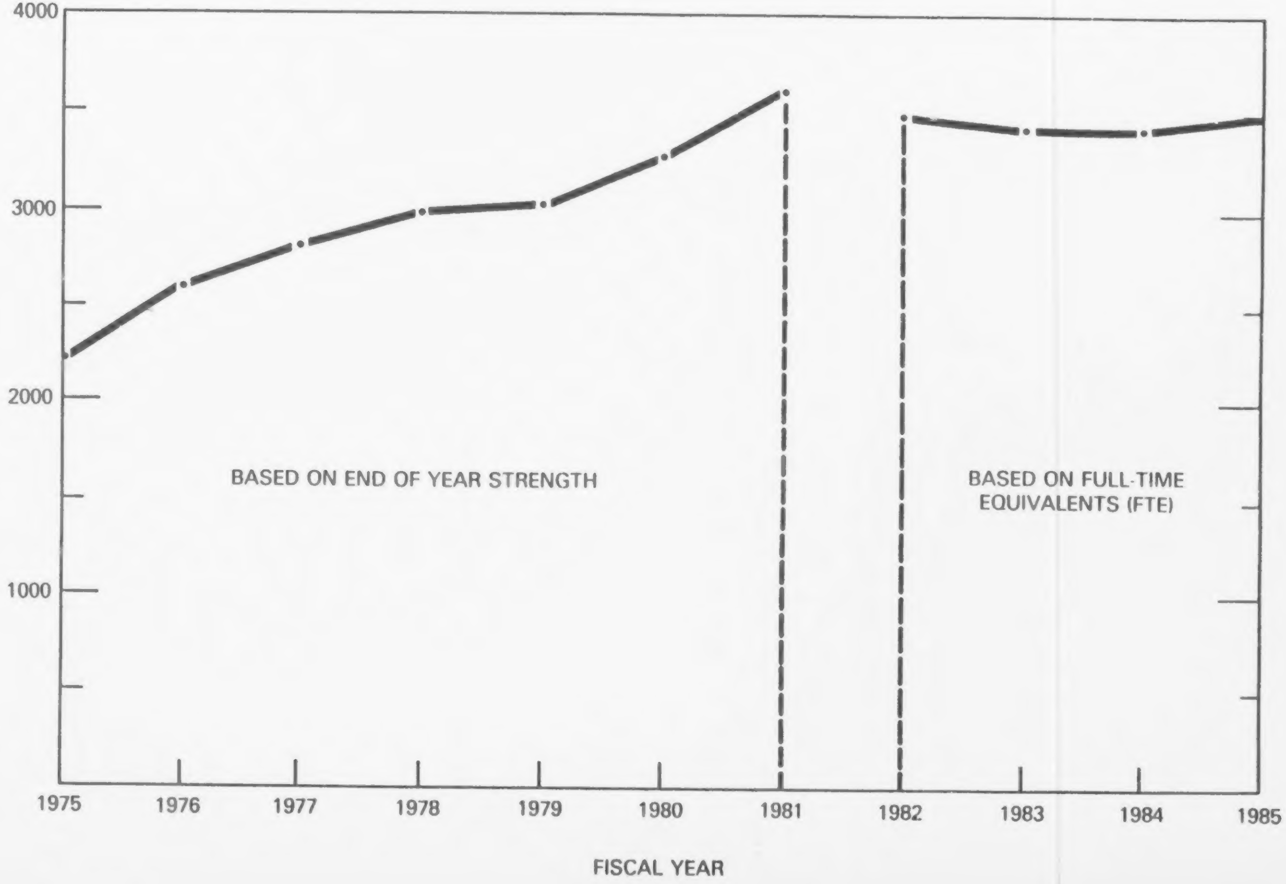


CHART 3

NRC TOTAL STAFFING



Testimony of
Victor Gilinsky
Commissioner, U.S. Nuclear Regulatory Commission
before the
Subcommittee on Nuclear Regulation
Committee on Environment and Public Works
February 23, 1984

Mr. Chairman, Members of the Committee:

I would like to use the occasion of this budget hearing to address the need for change in several areas of NRC's activities. I am talking mainly about improving the agency's ability to oversee the safety of operating nuclear power plants, simplifying the hearing process, and making the Commission function as a decisionmaking body.

REORIENTING THE NRC TOWARD NUCLEAR OPERATIONS

Without slighting the very important job of overseeing the remaining construction projects, and of being prepared to deal with possible new projects, it is clear that the Commission's principal task for some time is going to be ensuring the safety of operating reactors. The most important issue before us is how to reorient the agency toward this task.

Budget Shifts Away From Research Towards Operations Should Continue

There has been a shift to reflect this change in the the NRC budget for FY 1985, but there is still too little support for inspection. To put the matter more concretely, our research budget is about three times as large as the budget for NRC inspectors. I believe that a further shift toward inspection would achieve more safety. We should keep in mind that safety depends more than anything else on operational discipline in doing the standard things well, twenty-four hours a day, and that, in the long run, you get the performance you inspect for.

A reorientation towards operations involves more than just the agency's budget. For example, few NRC staff members have operational experience in industry and, so far as I can tell, neither do any of the two dozen or so top officials -- or any of the Commissioners. Yet, such experience is essential if the agency is to give proper oversight to operator qualifications, plant operating procedures, maintenance, and other essential aspects of operations that affect safety day in and day out.

To give you an example of the sort of problem the NRC might have anticipated had it been more alert to plant operations, we now find ourselves in the awkward position of having to decide on the licensing of new plants which do not have a single operator on their staff with prior experience operating a commercial nuclear power plant. It is hard to think of a more worrisome state of affairs. During normal operations, the senior operators authorize maintenance, repairs, and testing. In an accident, they decide whether automatic safety systems should be disabled or overridden. The significance of this should be apparent from our experience at TMI.

Agency Needs Firmer Sense of Its Safety Responsibilities

Altogether, the agency needs a firmer sense of its safety responsibilities. A great deal of Commission time that might have been better spent has been devoted to peripheral matters. I put in this category the so-called "licensing reform" effort, which was intended to smooth the way for future reactors. The resulting legislative proposal hardly justifies the effort expended on it.

Another example of the NRC's bending with the wind is the agency's response to the "licensing crunch" of two years ago when the agency was told, in effect, that it was expected to license 33 reactors in two years. These were the figures announced by the the DOE Secretary and the NRC Chairman. The agency was turned inside out to avoid licensing delays projected on the basis of utility schedules. As it turned out, the projected delays were a mirage. The utility schedules were completely unrealistic and only 7 of the plants were completed and ready to be licensed in that time. However pleased we may be that the NRC completed its part of the licensing work for these plants well ahead of time, we should recognize a price was paid in terms of safety work undone elsewhere.

Create Safety Board to Review Mishaps and Agency Performance

The NRC still does not have a good system for the early spotting of safety problems, or of learning the lessons of accidents and near-accidents. The staff office created after TMI to carry out this function has too little stature and too little independence for this role. The experience with problems at both operating plants and those under construction has been that the NRC has not been effective at evaluating its own performance. For example, even though it was clear that the failure of the automatic shutdown system a year ago at the Salem plant had not been properly handled by the NRC, there was no real evaluation of this, and there were no significant recommendations for improvement at NRC. In fact, I sense an increasing tendency to be defensive about the agency's shortcomings.

To correct this situation, I would revive the suggestion made some years ago, that the NRC create an independent body -- a Safety Board -- to investigate mishaps. Such a Board would assign probable cause and make recommendations for improvements, both at power plants and at the NRC. One possibility for this role is the Advisory Committee. For this purpose it should have a more operational orientation and, ideally, a new statutory charter. The Advisory Committee should, in any case, have more members with operational experience. I am pleased to say that the Committee does now include a former plant manager -- Mr. Reed of the Point Beach plant.

SIMPLIFYING THE HEARING PROCESS

A great deal has been said about the need to improve the hearing process. Most of the proposals, however, have failed to meet the basic test of fairness, and I have opposed them. The fact remains that something needs to be done about the overly legalistic nature of the process, which is exploited by all the parties (not merely the intervenors) to further their own interests. The hearings often deal in excruciating detail with minor matters, while failing to deal properly with major ones.

The overly legalistic cast of the hearings has no single cause. Ironically, it originated in the Atomic Energy Commission's embracing of the court model as useful window dressing in view of that Commission's obvious bias in favor of promotion.

Since then, a succession of Commissions have found the Licensing Board hearings, and the surrounding judicial trappings, a ready excuse for not themselves coming to grips with vexing safety questions. The creation of the Appeal Board enabled the Commission to further distance itself from the hearings. Despite this, the Commission regularly invokes the Pillsbury doctrine[1] to fend off Congressional inquiries.

There is no single cure for these ills. There are, however, a few measures which could readily be taken to make the NRC system more sensible and more effective in dealing with safety issues without further undermining basic fairness in the hearings.

Get NRC Staff Out of Hearings As A Party

The first of these is to get the NRC staff out of the hearings as a party. The staff's current role in hearings not only involves a tremendous waste of the staff's time but is inconsistent with its health and safety responsibilities -- both in appearance and in reality. There isn't any question that the staff's habitual lining up with the utility to argue for a license undermines public confidence in the NRC. The TMI case is the perfect example of that. Moreover, I am convinced that the staff role in hearings affects substantive decisionmaking. It would, in fact, be surprising if it did not.

The Byron case, in which the Licensing Board recently denied an application for an operating license, demonstrates the problems which exist. There, the staff, which was seeking approval of the license, tried to circumvent the Licensing Board's review of the plant's quality assurance program and failed to inform the Board promptly of some of the problems at the plant. As it turned out, this approach backfired.

The staff's participation in the hearings as a party seeking a particular outcome results in the Commission not even being aware of some of the major decisions made by the agency. In the TMI-1 case, the NRC staff and the Chairman of the Board of GPU have apparently agreed upon a change in the top management of GPU Nuclear. The NRC staff and the Byron owners have been in discussions, to which the Commission is not privy, on how best to extract the license from the Boards. Again, the Commission was on the sidelines. The NRC staff's comment on this is revealing: "...the staff's actions with respect to Byron were consistent with customary practice...It has not been the Commission's practice in recent years to seek or to obtain from the staff reports on the substantive details of the staff's review of particular operating license applications."[2]

I would partially relax the current bars on communications about contested matters. I am firmly convinced that the public has a great deal more to fear from uninformed Commissioners than it does from their learning something outside the strict confines of the adjudicatory proceeding.

The NRC staff's participation in hearings also has a budgetary aspect. I have been told by NRC resident inspectors at sites involved in hearings that they spend as much as half of their time on the hearing. Much, if not most, of this time is attributable to the fact that the NRC staff is a party.

Abolish the Appeal Board

Another step toward simplifying the hearing process would be to make the Commission directly responsible for appeals from Licensing Board decisions. I would eliminate the Appeal Board, both to tighten decisionmaking and to reduce the excessive legalism which that Board has promoted in the conduct of hearings. While the Commission would, of course, have to rely on the support of a hearing office, perhaps under the General Counsel, the Commission would still be far more intimately involved in the decision than it is now. It might not hurt if Commissioners occasionally wrote their own decisions.

I would add that under these circumstances, there would be no need for the Commission to take review of as many issues as the Appeal Board does.

Keep Commission in Approval Process for Operating Licenses

I think it is worth pointing out that since the Three Mile Island accident the Commissioners have themselves been passing on all operating license approvals before they go into effect. These Commission reviews, brief as they are, have led to some very significant improvements in plant hardware and operations, not to speak of the fact that they have been very informative for the Commission.

I mention this only because there are pressures to return to the old way of doing things, and there is some support for this on the Commission.

STRUCTURE OF THE COMMISSION

The third point I would like to raise with you is the Commission's decline as a decision-making body. The interaction between the Commissioners has dwindled over the past several years, with little interchange of ideas or collective decision-making taking place. The Commission has difficulty in focusing on the important questions and in meeting goals. And responsibility for the agency's actions is so diffused throughout the whole organization that there is little accountability. A certain amount of this is inherent in the Commission form; but the problems here go far beyond that.

A couple of years ago, the Commission agreed to try to focus its activities and enhance its efficiency by giving each Commissioner lead responsibility for an area of the agency's business. The particular areas each Commission would handle were agreed to by all. But then, for reasons that remain unclear, the matter was quietly dropped.

The Reorganization after the Three Mile Island accident was intended to clarify the roles of the Chairman and Commissioners, but it only succeeded in confusing things further, and in creating new problems. For example, the difficulties in holding top managers accountable are very much increased by the Chairman's having been made their direct supervisor by the Reorganization Plan; criticism of the managers' actions is now criticism of the Chairman. An additional result of the Reorganization is that the Commission is more removed from the staff and is less well informed than it has ever been before.

I want to emphasize that these personnel matters are not merely housekeeping details which are more efficiently delegated to one person. The NRC staff organization plays a larger role in the agency's decisionmaking than do the staffs at other regulatory bodies. Control of the NRC staff is very nearly tantamount to control over the agency's decisions.

A Three-Member Commission?

Ultimately, the Commission's performance depends a great deal more on the quality of the individual Commissioners than it does on the details of organization. It may be, however, that as a practical matter a Commission of five members is just too unwieldy.

I would recommend a smaller Commission of three members, with each Commissioner having lead responsibility for an area of the agency's activities. This would tighten the Commission's operations and collective decisionmaking and it would help focus responsibility and authority (and competence) while retaining the advantages of a Commission -- independence and greater balance. My own experience is that the Commission functioned much more effectively when there were only three Commissioners (either because seats were unfilled or because of disqualifications on particular issues). The Tennessee Valley Authority, which has major operational responsibilities, is run by such a three person board.

I want to add that the NRC staff members are as good and competent a group as you will find anywhere. We have to find better ways to guide their efforts.

In conclusion, Mr. Chairman, I would like to say that it has been a pleasure to work these many years with you, with Senator Hart, and with the other members of the Committee.

NOTES

1 Pillsbury Company v. Federal Trade Company, 354 F.2d 952 (5th Cir. 1966), in which the court found that Congressional questions about an FTC Chairman's views in a case constituted a denial of procedural due process.

2 Memorandum to the Commission from the Executive Director for Operations, February 21, 1984, "Byron Nuclear Station -- Staff Communications on Problems with Quality Assurance."

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555

OFFICE OF THE
COMMISSIONER

March 16, 1984

The Honorable Alan Simpson, Chairman
Subcommittee on Nuclear Regulation
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

I am writing you to add to my remarks at your recent NRC budget hearing in view of the exceptions taken by the NRC staff in a memorandum, which I have attached.

The NRC staff's explanation of its litigation strategy in the Byron proceeding reinforces my view that the staff chose not to raise the issue of quality assurance before the Board because the staff believed that it could deal more conveniently with this issue on its own. The Licensing Board, after all, sits in place of the Commission. Would not the natural and straighforward staff action in the circumstances have been to alert the Commission's delegates to the problems at the plant?

As for the staff's characterization of its discussions of the Byron decision with Commonwealth Edison officials, the best that can be said is that it assumes a great naivete on the part of the reader. The fact is that the staff met with the Company to discuss their next steps in the case. Such meetings are normally out of sight of the Commission. In this instance, I took the unusual measure of sending my legal assistant, Mr. Manning, to the meeting after we were informed that a transcript would be kept and served on the parties. As it turned out, rather sparse minutes were circulated by the staff. We circulated a more detailed version. I do not think that my description of the parties' meeting as one on how to "extract" a license is too strong.

I am pleased to have the NRC staff's statement that it has not reached a private arrangement with GPU officials about the management of that company. It is indicative of the problems caused by the staff's participation in the hearings that this is the first time that we have received such a statement.

I can understand the NRC staff lawyers' attachment to their traditional role. However, the fact of the matter is that their continued participation in the hearings as the representatives of a party seeking issuance of a license exacerbates the legalistic nature of NRC's proceedings. The staff's participation in the hearings also affects their judgment. This was brought home to me at a hearing in Harrisburg when an NRC staff attorney insisted, against all common sense, that a TMI Operations Manager had not cheated when he had turned in an exam completed by someone else. I am convinced the present practice has a profoundly demoralizing influence on the entire organization. There is no doubt in my mind that staff members, particularly those who may be called upon to testify on behalf of the license, are confused about where their responsibilities lie. These problems can only be cured by eliminating the NRC staff's role as a full party in our licensing hearings.

Sincerely,

Victor Gilinsky
Commissioner

Attachment:
As stated

cc: Senator Gary Hart

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

March 14, 1984

V/C

MEMORANDUM FOR: Commissioner Gilinsky

FROM: William J. Dircks
Executive Director for Operations

SUBJECT: ACCURACY OF STATEMENTS IN RECENT CONGRESSIONAL TESTIMONY

As we have discussed, several of the remarks concerning the hearing process and related staff actions contained in your prepared testimony presented to the Udall and Simpson Committees, and repeated in the Energy Daily for March 6, 1984, bother me. I am concerned by the implication of these remarks that you believe, and that others may therefore conclude, that the NRC staff is not playing fair in the way it processes licensing applications. I have discussed this matter with you previously, and have spent additional time looking into it to see if I can find the basis for the specific charges contained in your testimony. Obviously, had I been able to find substantial justification for your perception, I would take the appropriate steps to initiate corrective action. However, I am unable to find that the charges that you have made are supported by the facts. This memorandum sets forth what I have found.

With regard to the Atomic Safety and Licensing Board decision regarding Byron, you stated that the staff "tried to circumvent the Licensing Board's review of the plant's quality assurance program and failed to inform the Board promptly of some of the problems at the plant." In our recent conversation, you told me that you were simply repeating the findings made by the Board.

A careful reading of the ASLB decision makes it clear that it does not support the harsh conclusions drawn by you. There are statements in the initial decision that "the relevance and importance of the reinspection program at Byron to the licensing review . . . and to the quality assurance litigation is, and has been, obvious" (Finding D-411), that the staff's original testimony "made no mention whatever of a reinspection program" (Id.), and that the failure to address the reinspection program in the original testimony "has never been explained by the staff nor understood by the Board" (Finding D-414). The ASLB explains this "initial slighting of the issue of the reinspection program" on the basis of "what appears to be the staff's misunderstanding" of the circumstances under which hearing matters may be delegated for post-hearing resolution (Finding D-418).

I do not believe that these ASLB statements support your conclusion that the staff "circumvented" the ASLB and (impliedly with improper motives) "failed to inform the Board promptly of some of the problems at the plant."

The ASLB was informed of the specific staff inspection findings which created the need for the reinspection program no later than September 1982, when Inspection Report No. 82-05 was attached as support for an intervenor's motion to reconsider summary disposition of another quality assurance contention. The staff's original testimony, filed in February of 1983, addressed the broad averments of the contention and briefly mentioned Inspection Report No. 82-05. The specific noncompliance relating to Hatfield Electric Co. (No. 82-05-19) was described as an open item in the attachment to the Staff testimony. During cross examination by applicant on April 7, 1983, the Staff witnesses discussed the ongoing reinspection program (Tr. 3657-59). The ASLB in its initial decision acknowledges that a reference to Noncompliance No. 82-05-19 was included in the Staff's original testimony and concedes that this "escaped our [the Licensing Board's] attention initially." (Finding D-43).

In a nutshell, I think it is clear that the Board, in its decision, was telling the staff that it should have informed the Board sooner and in more detail about the reinspection program, but that it understands the staff did not do so because it thought that resolution of the issues subject to the reinspection program could properly be delegated to the staff. I read nothing in the Board decision as implying improper motivation. Your contrary reading of the decision, erroneous in my view, is that the staff didn't tell the Board any earlier or in any more detail because it was improperly trying to keep the matter from coming to the Board's attention in order that it could resolve the matter in its own way and on its own schedule.

Another element of your testimony which gives me concern is the allegation that "the NRC staff and the Byron owners are currently in discussions, to which the Commission is not privy, on how best to extract the license from the Boards." There are absolutely no such discussions going on, nor have any taken place in the past. The closest thing to such discussions (and not very close at that) was the large meeting held in the Maryland National Bank Building on January 17, 1984 which was attended by your assistant Bill Manning. All Commissioners' offices were notified of the meeting in advance and copies of the minutes were distributed to all parties to the Byron proceeding, to the Boards, and to the Commission by both the staff and Mr. Manning.

The purpose of that meeting was not to discuss the "extraction of the license from the Boards," but rather to discuss the underlying technical issues which led the Byron Board to reject the license and the current status of the resolution of those issues. In addition, the Applicant explained that it was weighing two procedural options: asking the ASLB to reopen the record or pursuing an appeal to the Appeal Board, possibly coupled with a request that the Appeal Board itself take additional evidence. The staff made it clear that Commonwealth Edison would have to make that choice itself and that the staff could not provide advice.

Finally, I must take exception to your charge that "in the TMI-1 case, the NRC staff and the Chairman of the Board of GPU have apparently agreed upon a change in the top management of GPU Nuclear. Again the Commission is on the sidelines." Over the past several years, I have had a number of meetings with the Chairman of the Board of Directors of GPU, William Kuhns, and the President of GPU, Herman Dieckamp. Within the last year, several of those conversations have indeed touched upon reorganization of GPU Nuclear. For example, Mr. Kuhns and Mr. Dieckamp met with me in late May or early June of 1983 and outlined what was shortly thereafter submitted as their June 10th proposal. That proposal did not involve, nor did we discuss, a change in "the top management of GPU Nuclear" (except for the proposed shift in emphasis of the duties of Bob Arnold, then President of GPU Nuclear, to focus on TMI-2 and Oyster Creek, while Phil Clark, his Executive Vice President, would focus on the TMI-1). I had no advance notice of the changes in top management of GPU Nuclear which subsequently took place. I learned of the resignation of Bob Arnold only when it was publicly announced at the time of an open Commission meeting. I was informed by Mr. Kuhns of the resignation of Herman Dieckamp, from the position of Chairman of the Board and Chief Executive Officer of GPU Nuclear, after the Board of Directors had finally approved such action. I had no advance notice. Upon receiving this information from Mr. Kuhns, I had Guy Cunningham, who was with me at the time, promptly inform each Commissioner's office, since the action had not yet been publicly announced.

I have taken the time to detail the basis for my belief that your recent testimony contained substantial inaccuracies because I am convinced that such inaccuracies do a substantial disservice to the Commission. They present a picture--totally untrue--of an NRC staff, in league with license applicants, running amuck in its efforts to aid these applicants at all costs in circumventing the established procedures of Licensing and Appeal Boards and the Commission, to obtain their licenses. Coming from a Commissioner, such charges are likely to be given more than ordinary credence, and can only further erode public confidence in the licensing process. I, and many others, share your frustrations over the workings of the existing hearing process, the limitations of the ex-parte and separation of functions rules, and the consequences of the existing role of the staff in the hearing process. The underlying causes of this frustration will not be eliminated by the repetition of distorted and exaggerated charges of improper dealings on the part of the Commission's own staff.

Bill

William J. Dircks
Executive Director for Operations

cc: Chairman Palladino
Commissioner Roberts
Commissioner Asselstine
Commissioner Bernthal
SECY
OGC
OPE

STATEMENT BY COMMISSIONER JAMES K. ASSELSTINE

FEBRUARY 23, 1984

Mr. Chairman, I would like to make a few comments on the need to extend the Commission's authority to issue temporary operating licenses, the Commission's review of the NRC staff's no significant hazards consideration determination pertaining to steam generator repairs at Three Mile Island Unit 1, and nuclear powerplant licensing reform legislation.

In the past, I have supported an extension through December 31, 1984 of the Commission's authority in section 192 of the Atomic Energy Act to issue temporary operating licenses for nuclear powerplants. However, I have now concluded that an extension of this authority would be unwise. I have reached this conclusion for two reasons. First, there is no reliable evidence showing that the operation of any plant will be unnecessarily delayed due to the hearing process. Thus, there is no demonstrated need for the provision. Second, there are strong public policy reasons which weigh against extending the temporary operating license provision in the absence of a compelling showing that this authority is actually needed.

In preparing testimony for Congressional budget hearings, the NRC staff identified four plants -- Shoreham, Catawba 1, Commanche Peak 1, and Limerick 1 -- for which, based upon the applicants' current estimates of construction completion, there existed some potential for licensing delay. Of those four, three plants -- Shoreham, Catawba and Commanche Peak -- have diesel generators manufactured by Transamerica DeLaval, Ltd. Based upon recent information indicating serious concerns about the reliability of TDL diesel generators, the NRC staff has already announced that it will not issue an operating license for any plant with TDL diesel generators until these concerns have been resolved. Given this action, it appears highly unlikely that any of these three plants will be ready to operate before the completion of the ongoing licensing hearings. As for the fourth plant, Limerick, the NRC staff's estimate for construction completion indicates that this plant will not be ready to operate prior to the scheduled completion of the hearing in that case.

In evaluating the reliability of applicants' present construction completion estimates, it is also instructive to look at how accurate previous utility construction completion estimates have been. A comparison of the NRC's first report to Congress on licensing and construction schedules in November 1980 with our most recent report last month shows that the applicants' construction completion estimates have been extremely unrealistic. For all the plants listed, construction completion dates have now slipped a total of at least 730 months. Of the 10 plants scheduled to be completed in 1981, only one was completed in that year. Of the 11 plants scheduled to be completed in 1982, only two were completed in that year. And of the 11 plants originally scheduled to be completed in 1983, only one was actually completed last year. Taken together, this information shows that there is not now any reliable evidence that an extension of the Commission's temporary operating license authority is needed.

My three colleagues who continue to support an extension of the temporary operating license provision argue that even if one cannot now identify any plant that requires a TOL, the authority to issue a temporary operating license is a useful safety valve to deal with unforeseen cases should they arise. This argument presumes that there are no real disadvantages to the temporary operating license authority. In that regard, I see a serious potential disadvantage to the issuance of a temporary operating license prior to the completion of the operating license hearing. As the recent decision by our Licensing Board in the Byron proceeding demonstrated, the licensing hearing can bring to light safety issues that are sufficiently serious to lead the Board to conclude that the operating license cannot be issued. Yet that decision would occur after the time when a temporary operating license would be issued and after the plant would have begun operation. Indeed, at one point last year the Byron plant was mentioned as a possible candidate for a temporary operating license. This potential that a plant could begin operation before a significant safety issue is resolved is, in my view, a serious disadvantage to the temporary operating license provision.

Finally, my three colleagues who support extension of the TOL provision have lost sight of the fact that the temporary operating license authority was always envisioned as an interim solution to what was perceived at the time as an immediate threat to the operation of some dozen nuclear powerplants -- a threat, by the way, that never materialized. This interim authority was never intended to serve as a substitute for longer-term measures such as the allocation of staff effort to licensing reviews and improved management of the hearing process that were needed to minimized unnecessary licensing delays. It is important to recognize that the Commission has followed through with these necessary long-term measures by reallocating staff resources to licensing reviews over the past two years and by establishing advisory schedules for the conduct of operating license hearings. Moreover, our Licensing Boards have done an excellent job in carefully managing these hearings to assure that they are completed in an expeditious and yet fair manner. I believe that these longer-term measures will continue to be effective in minimizing any unnecessary licensing delays for the plants still under construction. Given the absence of any compelling showing that the operation of any plant will be substantially delayed without the TOL authority, the effectiveness of the longer-term measures already adopted by the Commission and the potential risk that a temporary operating license would permit the operation of a plant with significant unresolved safety questions, I cannot support a request to extend the Commission's temporary operating license authority.

On the subject of the Commission's review of the NRC staff's no significant hazards consideration determination for the TMI-1 steam generator repairs, the Commission is now deadlocked, with two Commissioners concluding that the staff's proposed determination is inconsistent with the Sholly amendment and two Commissioners concluding that the staff's determination is appropriate. The fifth Commissioner has decided that a Commission decision on the appropriateness of the staff's determination is not necessary at this time. The central question is whether the staff's implementation of the Commission's Sholly regulations is consistent with the statute and its legislative history. In view of the fact that the NRC staff is continuing to apply its interpretation of the Sholly regulations in other cases and the Commission is unable to provide guidance to the staff on the appropriateness of the staff's interpretation, the Committee may want to consider the need for additional guidance to the Commission, as part of action on the pending NRC authorization bill, on the intended scope of the Sholly amendment.

On the subject of nuclear powerplant licensing reform, I continue to believe that legislation would be helpful in developing the necessary regulatory framework for the ongoing efforts of several reactor manufacturers to develop more complete standardized plant designs. The recent experience with the construction of the St. Lucie 2 plant in FLorida and the three-unit Palo Verde plant in Arizona, which both represent a form of standardization, indicates that the use of more standardized plant designs can have significant benefits in assuring that plants are constructed properly and within realistic cost and schedule estimates. Some provisions of the NRC and DOE legislative proposals that are less directly related to the use of standardized designs, such as backfitting restrictions, the elimination of certain hearing rights, modifications to adjudicatory hearing procedures, limitations on the role of licensing hearings and attempts to define safety-cost trade-offs, have proven to be controversial. At the same time, there appears to be more of a consensus in favor of other provisions more directly supportive of standardization, such as the authority to issue site permits, standardized design approvals and combined construction permits and operating licenses, together with provisions to assure an opportunity for a hearing on each safety, security and environmental issue at the earliest possible stage in the licensing process.

Given the potential for consensus on these elements and their benefits in encouraging further standardization, I would suggest that the Committee consider a more limited bill that focuses on the provisions most directly related to the standardization concept.

Finally, Mr. Chairman, I feel that I have to make a few comments on the Commission's response to your question regarding the Grace Commission's recommendations. In that response, three Commissioners expressed the view that the Chairman and the Executive Director for Operations should be given greater authority, and two Commissioners recommended Congressional action to replace the Commission with a single Administrator. On the subject of a single Administrator, I continue to believe that the Congress struck the right balance in adopting Reorganization Plant No. 1. That Plant gave the Chairman exclusive authority for responding to emergency situations as well as administrative responsibility for the agency's day-to-day operations, but it preserved the authority of the five Commissioners for policy formulation, rulemaking, orders and adjudication, and for the appointment and removal of a few senior staff members in the agency -- on the order of 10 people, excluding the Boards and the ACRS. In adopting that Plan, the Congress recognized the value of having significant nuclear regulation policy matters and decisions considered by a small collegial body composed of members with a range of perspectives and experience, rather than by a single individual. I think the Congress also recognized that if the collegial system is to work effectively, the senior NRC staff must be accountable and responsive to the policy directions of the Commission, and all Commissioners must have access to the information they need to carry out their responsibilities. Although a single Administrator would probably be more efficient, I think there is a benefit in having the significant and often complex, not to mention contentious, policy issues involved in nuclear regulation aired and debated by a collegial group with differing perspectives and experience.

In terms of expanded powers for the Chairman and the Executive Director, I fail to see what additional authority is needed or advisable in improving the Commission's operation. The Chairman already has the authority to hire and fire all but a small handful of the 3,400 agency employees, and he has interpreted the Reorganization Plan as giving him exclusive final authority to award bonuses for SES employees. These are powerful management tools. Moreover, the Chairman has interpreted the Reorganization Plan as giving him the authority to direct the development of major policy initiatives by the staff without prior consultation with the other Commissioners. Even the present allocation of authority between the Commission and the Chairman has resulted in a few instances in which policy and rulemaking initiatives were either begun or stopped without a full discussion among the Commissioners. It seems to me that any further expansion of the powers of the Chairman and the EDO would seriously undermine the five Commissioners'policy making responsibilities and, for all practical purposes, would convert the agency to a single Administrator form of operation.

STATEMENT OF COMMISSIONER THOMAS M. ROBERTS

Thank you, Mr. Chairman and members of the committee, for providing me with the opportunity to make my views on several important issues part of the record of this hearing.

Uranium Mill Tailings

On the subject of Uranium Mill Tailings regulation, I share your frustration. On September 9, 1982, I requested that a task force be formed to undertake an evaluation of the regulatory assumptions of 10 CFR Part 40. The Task Force was formed in November 1982. A few months later the Task Force recommended certain modifications to 10 CFR Part 40 to provide a better balance between risks and requirements without compromising the protection of the public's health and safety. In addition, they recommended performance-oriented requirements affording the licensees more flexibility in meeting the regulation. Based on the Task Force's recommendations, NRC submitted comments to the EPA on their proposed standards. As you know, many of these were not taken.

There was a flurry of activity in the latter part of 1983: (1) the FY 83 authorization bill requiring NRC to conform to final EPA standards within six months of its promulgation was enacted; (2) NRC suspended those parts of their regulations which were affected by proposed EPA's Title II standards; and (3) EPA promulgated its final Title II standards on September 30, 1983. Yet, I still felt that we have not met our goal of having sensible regulation for the uranium mill tailings, and that to do so the NRC needed to implement the spirit as well as the letter of the pertinent laws, i.e., UMTRAC and RCRA.

The Commission has now before it two alternative ways to conform the NRC's regulations to the EPA standards. The first one, proposed by the NRC staff on December 28, 1983, would amend 10 CFR Part 40 Appendix A to remove conflicts with the EPA standard not related to ground water, as well as, include amendments dealing with the implementation matters which necessarily flow from the EPA changes. The second alternative, proposed by our Office of General Counsel on February 3, 1984, would limit the conforming changes to those which are clearly inconsistent with EPA standards and would wait for further analysis by the NRC staff and possibly an Environmental Impact Statement before proposing the implementation changes.

I personally believe that the EPA has gone beyond its mandate and has promulgated implementing requirements instead of general standards. Thus, I feel that the Commission should resolve this fundamental question before addressing the matter of conformance with EPA.

Regarding the memoranda of November 14, 1983 and December 15, 1983 to the Agreement State licensees requiring them to comply with the EPA standard regardless of the status of NRC's conforming regulations, the Commission was not involved and has not looked into this matter. However, it seems to me that this action was premature. I have asked a member of may staff to look into the matter.

Emergency Preparedness

Regarding emergency preparedness, I believe we have made considerable progress in improving emergency preparedness during the past three years. We now have vastly improved emergency plans, facilities, training and procedures at each nuclear facility. We also have hundreds of state, county and municipality plans to guide offsite response. In addition, there are new or improved emergency operations centers, communications equipment, and other facilities which have significantly improved the overall preparedness around commercial nuclear power plants.

I believe that with a cooperative effort between the licensees, offsite authorities and federal agencies, we can achieve an adequate level of emergency preparedness at all facilities. However, for a variety of reasons or motivations, we have found and may likely continue to find instances where state or local governments indicate that they will not participate in the planning process or in any implementation of radiological emergency reponse plans. Such a situation is truly unfortunate particularly since the public's health and safety are not protected.

I would hope that the Congress and the Commission would work to find methods to encourage participation by all affected state and local governments. In the interim, we may have to develop alternative methods to achieve an adequate state of emergency preparedness for these cases where there are recalcitrant state or local governments.

Backfit

The written Commission testimony also includes some of my personal remarks on the backfitting issue. I believe that improved backfit management is sorely needed. While the Staff Requirements Memorandum of June 22, 1983, is a step in the right direction, it falls short of the mark. In fact, improved management of backfits has been cited by many responsible industry and regulatory officials as the single most important issue for regulatory reform. Given the fact that the backfit rule was not enforced for over a decade, I believe that that the Commission should carefully evaluate proposed backfits to ensure that new requirements "will provide substantial additional protection which is required for the public health and safety." 10 CFR 50.109(a). (emphasis added) I urge you as well as my fellow members of the Commission to continue to work to make improvements in this key area.

No Significant Hazards Considerations

When Congress was considering the amendment Section 189 of the Atomic Energy Act to add the "Sholly" language, it had before it the Commission's proposed rule codifying the standards that the Commission had been using for many years in making no significant hazards consideration determinations. During floor debate on the amendment, Senator Domenici read the Commission's proposed rule into the record and stated "... the Sholly Amendment is intended to restore to NRC an authority which it had long exercised under The Atomic Energy Act, until the courts intervened." (128 Cong. Rec. S. 15313 (daily ed. Dec. 16, 1982). I believe that the Congress intended that the Commission make no significant hazards determinations under the Sholly Amendment by applying its historical standards in the same manner that they had been applied under long-standing agency practice and interpretation.

Temporary Operating License

I believe that the Commission's authority to issue temporary operating licenses should be extended. Even though there is at present no clearly identified need for the authority, I agree that it should be available if we find that a plant is ready to begin operation in all respects but for completion of our hearing process. Should the need arise without the authority in place, there is little likelihood that the Congress could enact it swiftly enough to avoid unnecessary delay in plant operation.

Commission vs. Single Administrator Structure

Finally, on the matter of the Commission's structure and its effect, it has become increasingly clear to me that the NRC cannot function as it now stands. Part of the reason for this is that beyond the vague mission of "... protect public health and safety" there now exists no specific functional guidance as to what the general mandate means or what the Congress wanted or expected from the NRC when it created the Agency out of isolated sections of the Atomic Energy Act of 1954. This leaves the agency interpreting and reinterpreting its programs and functions ad nauseum. Thus, there is a never ending cevolution of regulation presumably in search of the risk free operation of nuclear plants. Surely this is not what Congress had in mind. More importantly, the NRC is basically unable to act decisively because of its lack of a linear organizational structure. The collegial structure dictates that decisions be made as "institutional decisions" which renders no one accountable. What is needed is a linear organizational structure, headed by a strong single-administrator so that credit and responsibility can be attributed to those who are deserving.

Therefore, I would propose that the Congress establish a Bipartisan Panel on Nuclear Licensing and Regulation that would propose legislative mandates, as well as organizational or functional definitions, for the licensing and regulation of the full civilian nuclear program from mining through all users of nuclear materials and waste management.

This concludes my prepared remarks.

STATEMENT OF SENATOR JOSEPH R. BIDEN, JR. (D.DEL)
SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
SUBCOMMITTEE ON NUCLEAR REGULATION
FEBRUARY 23, 1984

Mr. Chairman, I want to thank you and the Environment Committee for allowing me to join you today and to ask a few questions of these distinguished witnesses about a matter which I believe is of continuing concern, not only to myself and the citizens of Delaware, but also to this committee and all people in the United States.

Yesterday marked an anniversary of sorts, but not an anniversary deserving of celebration. A year and a day ago, on February 22, 1983, the Salem 1 nuclear reactor, which is physically located in New Jersey, but sits right across the Delaware River from Delaware City, Delaware, failed to perform its most important and basic function, it failed to stop automatically, even though its highly automated system was telling it that a dangerous condition existed in the plant and that the nuclear reaction should be halted.

To make matters worse, not only did the supposedly "fail-safe" mechanism fail and the plant experience an event that the nuclear industry has argued would never occur, but plant personnel and supervisors did not even notice that Salem had experienced the first, what the technicians call, "Anticipated Transient Without Scram," at a licensed nuclear reactor in the United States. In other words, an anticipated eventin the complex operation of this plant of this complexity occurred, such as loss of a water pump, and the automatic safety system failed to shut down the nuclear reaction. The only reason we found out about the February 22nd incident was that the same system failed again three days later, on February 25th.

Investigation by the Nuclear Regulatory Commission has attributed the mechanical failures to safety related parts which were completely worn out and improperly maintained. The NRC investigation has also shown that a key component in the mishaps was a wide variety of human, administrative and management failures. In fact management failures were so pervasive at this plant with regard to the events leading up to and including the 22nd and 25th events, the NRC fined the plant owners a record $850,000. Another and perhaps a more alarming conclusion from the NRC investigation was that the Salem plant operations represent those typical for the industry. In other words, the lackadaisical attitude toward safety at the Salem plant replicates itself in nuclear plants all over the country.

Mr. Chairman, I did not come here to give a speech on the facts of record at Salem or particularly to make an indictment of the nuclear power industry. I did , however, come to ask these witnesses to speak to the subject of the current status of the Salem operation, the impact the startling events there have had on other plants and the industry, and how the NRC has itself changed its operations in response to the problems found at Salem and other plants.

In many ways, Mr. Chairman, the Nuclear Regulatory Commission acts a lot like the teacher in a classroom with a number of disruptive and uncontrollable students. The teacher has a limited number of tools by which he or she can single out one of the trouble makers and hope that the rest of them behave for a while. The teacher can also suspend a student on occasion and hope that the individual student will conform to classroom decorum upon return. But the troublemakers have a way of returning to the classroom one way or another and the bulk of any attitudinal change on their part will be of their own making.

The economic imperatives behind a functioning nuclear power plant inevitably mean that the Nuclear Regulatory Commission will be pressured to put a plant, even a troubled plant, back on line. Frankly, that is what I am concerned happened at Salem. I do not fault you for your predicament, but the long history of problems at Salem, both major and minor make me worry that history will repeat itself. The Three Mile Island incident has already shown us that some classroom troublemakers can self destruct.

QUESTION 1. Please discuss in detail the budget request for fiscal year 1985. How do these figures compare to the amounts actually obligated in fiscal year 1983 and appropriated in fiscal year 1984?

ANSWER.

The following table shows actual obligations for FY 1983 and the appropriation for FY 1984 as identified in NRC's initial reprogramming request to Congress dated November 28, 1983, compared to NRC's FY 1985 budget request. Details are contained in NUREG-1040: Budget Estimates - Fiscal Year 1985.

(Dollars in Millions)

Program	FY 1983 Obligations	FY 1984[1] Appropriation	FY 1985 Request
Nuclear Reactor Regulation	$ 90.9	$ 91.0	$ 91.0
Inspection and Enforcement	68.5	75.3	92.2
Nuclear Materials Safety and Safeguards	34.6	37.5	43.5
Nuclear Regulatory Research	207.3	189.4	168.4
Program Technical Support	27.2	29.0	30.5
Program Direction and Administration	38.6	43.6	42.6
Total	$467.1	$465.8	$468.2

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[1] Amount carried in NRC's FY 1985 Budget justification is as follows:

Appropriation	$465.8
Unobligated balance carried forward	12.2
Proposed pay raise supplemental	2.1
	$480.1

QUESTION 2. PLEASE DISCUSS THE RATIONALE FOR THE INCREASES OR DECREASES IN THE LEVEL OF FUNDING FOR FISCAL YEAR 1985. IN AREAS WHERE PROGRAMS ARE INCREASED, INDICATE WHETHER THESE BUDGETARY INCREASES ARE TIED TO NEW AGENCY INITIATIVES OR AN INCREASE IN ONGOING PROGRAMS. SPECIFY WHAT THE ADDITIONAL FUNDS WILL PROVIDE. IN THE PROGRAMS WHERE REDUCTIONS HAVE BEEN MADE, WHAT SPECIFIC AREAS OF THE PROGRAM WILL BE REDUCED OR ELIMINATED, AND WHAT WILL BE THE EFFECT OF THESE REDUCTIONS ON OPERATION OF THE PROGRAM? IF THERE IS NO CHANGE IN FUNDING FROM LAST YEAR, HAVE ANY CHANGES BEEN MADE IN PROGRAM PRIORITIES?

ANSWER.

THE FOLLOWING SUMMARIZES THE MOST SIGNIFICANT PROGRAMMATIC CHANGES IN NRC'S REQUESTED LEVEL OF FUNDING FOR FY 1985:

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THE NUCLEAR REACTOR REGULATION (NRR) PROGRAM FUNDING IS ESSENTIALLY LEVEL. INDIVIDUAL NRR PROGRAM CHANGES HAVE OCCURRED WHICH REFLECT A SHIFT FROM THE LICENSING OF NEW REACTORS TO THE REGULATORY ACTIVITIES ASSOCIATED WITH OPERATING FACILITIES.

THE INSPECTION AND ENFORCEMENT PROGRAMS HAVE THE LARGEST FUNDING INCREASE. MAJOR CHANGES ARE RELATED TO: INCREASED OPERATING REACTOR INSPECTIONS AS NEW REACTORS BECOME LICENSED; INCREASED ENFORCEMENT ACTIVITIES; NEW INITIATIVES SUCH AS: INSPECTION OF SELECTED FACILITIES REQUIRING MORE THAN NORMAL INSPECTION EFFORT, INCREASED INSPECTION SUPPORT DURING REACTOR OUTAGES; INCREASED EMERGENCY PREPAREDNESS EXERCISE OBSERVATIONS; AND FOR INCREASED STAFFING REQUIREMENTS AS DISCUSSED IN THE ANSWER TO QUESTION 3.

THE NUCLEAR MATERIAL SAFETY AND SAFEGUARDS PROGRAMS HAVE A MODEST FUNDING INCREASE WHICH IS MAINLY DUE TO THE NUCLEAR

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WASTE POLICY ACT (NWPA). THE NRC ROLE IS TO PROVIDE THE NECESSARY LICENSING AND REGULATORY OVERSIGHT FOR THE EXECUTIVE BRANCH'S PROGRAM AS REQUIRED BY THE NWPA OR AS OTHERWISE APPROVED BY CONGRESS. THE REQUESTED FUNDING INCREASE IS NEEDED TO ASSURE NRC CAN ACCOMPLISH ITS ROLE IN A TIMELY MANNER AND FOR INCREASED STAFFING REQUIREMENTS AS DISCUSSED IN THE ANSWER TO QUESTION 3.

THE NUCLEAR REGULATORY RESEARCH PROGRAM FUNDING FOR FY 1985 IS SUBSTANTIALLY LESS THAN FY 1984. WORK WHICH WAS CURTAILED OR COMPLETED INCLUDED: THE USE OF NOISE DIAGNOSTICS FOR SAFETY ASSESSMENTS WITH ASSOCIATED DEMONSTRATION OF CONTINUOUS ON-LINE REACTOR SURVEILLANCE; CORE RETENTION DEVICES FOR THE MITIGATION OF CORE MELT ACCIDENTS; THE INVESTIGATION OF ADVANCED CONTROL ROOM CONCEPTS GENERALLY APPLICABLE TO NEW DESIGNS; HUMAN FACTOR APPLICATION IN THOSE AREAS WHICH INPO IS PURSUING WORK SUCH AS PROCEDURE FORMATS, PERSONNEL SELECTION AND TRAINING; CRBR SPECIFIC SUPPORT; AND APPENDIX K ANALYTICAL SUPPORT WHICH HAS NOW

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BEEN REQUESTED FROM THE INDUSTRY. THIS REPRESENTS APPROXIMATELY FOURTEEN MILLION DOLLARS OF THE TOTAL REDUCTION. THE REMAINDER IS ACCOUNTED FOR THROUGH REORIENTATION OF THE NRC SEVERE FUEL DAMAGE PROGRAM AWAY FROM THE POWER BURST FACILITY, THE SIGNIFICANT COMPLETION OF MAJOR THERMAL HYDRAULIC CODES AND A RESULTANT REDUCED WORK EFFORT, AND THE NARROWING OF RESEARCH ADDRESSING THE PROBLEMS OF OCCUPATIONAL PROTECTION AND FUEL CYCLE RESEARCH.

QUESTION 3. WHAT PERSONNEL INCREASES OR DECREASES ARE BEING PROPOSED? HOW WILL THIS AFFECT THE AGENCY'S ABILITY--INCLUDING ANY ADDITIONAL TIME IT MAY TAKE--TO CARRY OUT ITS PROGRAM RESPONSIBILITIES?

ANSWER.

NRC Personnel By Program

	FY 1984 Estimate	FY 1985 Estimate	Change
Nuclear Reactor Regulation	716	716	-
Inspection and Enforcement	1011	1067	+56
Nuclear Material Safety and Safeguards	346	361	+15
Nuclear Regulatory Research	244	244	-
Program Technical Support	371	375	+4
Program Direction and Administration	728	728	-
Total	3,416	3,491	+75

THE PERSONNEL REQUESTED ARE ADEQUATE FOR THE NRC TO FULFILL ITS RESPONSIBILITIES, INCLUDING NEEDED INCREASES TO PROVIDE FOR HIGH PRIORITY EFFORTS IN THE INSPECTION AND ENFORCEMENT PROGRAMS; FOR INCREASED INSPECTIONS AT OPERATING POWER REACTORS AS NEW REACTORS ARE LICENSED, FOR INCREASED SUPPORT FOR INVESTIGATIONS AND FOR ANALYSIS OF POWER REACTOR OPERATIONAL DATA; IN THE NUCLEAR MATERIAL SAFETY AND SAFEGUARDS PROGRAMS FOR SUPPORT OF THE NUCLEAR WASTE POLICY ACT; IN THE PROGRAM TECHNICAL SUPPORT PROGRAM FOR INCREASED EMPHASIS ON INVESTIGATIONS AND FOR ANALYSIS OF REACTOR OPERATIONAL EXPERIENCE.

QUESTION 4. PLEASE DISCUSS ANY RESCISSIONS, DEFERRALS, OR SUPPLEMENTALS REQUESTED FOR FISCAL YEAR 1984.

ANSWER.

THERE ARE NO RESCISSIONS OR DEFERRALS PENDING FOR FY 1984. THE PRESIDENT HAS FORWARDED TO CONGRESS AN FY 1984 PAY RAISE SUPPLEMENTAL FOR THE NRC TOTALING $2,100,000. THIS REPRESENTS ONE HALF OF NRC'S ESTIMATE OF THE PAY RAISE THAT BECAME EFFECTIVE THE FIRST PAY PERIOD AFTER JANUARY 1, 1984.

QUESTION 5. PLEASE INDICATE IF ANY LEGISLATIVE INITIATIVES ARE NECESSARY, OR ARE BEING CONSIDERED, TO IMPLEMENT ANY PART OF THE AGENCY'S FISCAL 1985 BUDGET REQUEST. IF SO, PLEASE DESCRIBE THESE PROPOSALS.

ANSWER.

THERE ARE FOUR SUBJECTS IDENTIFIED IN THE WRITTEN TESTIMONY WHERE LEGISLATIVE ACTION WOULD BE OF PARTICULAR INTEREST TO THE COMMISSION, I.E., LICENSING REFORM AND TEMPORARY OPERATING LICENSES, EMERGENCY PREPAREDNESS AND TMI-2 CLEANUP. THE NRC IS ALSO CONSIDERING OTHER LEGISLATIVE PROPOSALS, FOR EXAMPLE: CRIMINAL SANCTIONS AGAINST THOSE WHO IMPEDE NRC EMPLOYEES, AUTHORITY TO WITHHOLD CERTAIN SENSITIVE GOVERNMENT SAFEGUARD INFORMATION; EXPANSION OF THE COMMISSION'S AUTHORITY TO IMPOSE CIVIL PENALTIES AGAINST CORPORATIONS; AND PROVISIONS FOR LICENSEES TO OBTAIN FBI CRIMINAL HISTORY CHECKS.

QUESTION 6. SPECIFY WHETHER ANY OF THE ACTIONS PROPOSED IN THE BUDGET REFLECT RECOMMENDATIONS OF THE GRACE COMMISSION.

ANSWER.

THE NRC BUDGET DOES NOT SPECIFICALLY INCLUDE RESOURCES TO IMPLEMENT THE GRACE COMMISSION RECOMMENDATIONS. HOWEVER, ONGOING NRC PROGRAMS ARE SUPPORTIVE OF THOSE RECOMMENDATIONS.

RECOMMENDATION	NRC ACTIVITY
NRC SHOULD SUPPORT THE ADMINISTRATION'S LICENSING REFORM AS PROPOSED BY DOE.	WHILE NRC AGREES THAT LICENSING REFORM IS NECESSARY, AND AGREES WITH SOME OF THE PROVISIONS OF THE ADMINISTRATION'S PROPOSED BILL, IT DOES NOT AGREE WITH ALL. NRC HAS SUBMITTED ITS OWN PROPOSED LEGISLATION.

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RECOMMENDATION	NRC ACTIVITY
NRC SHOULD DEVELOP FIRM STANDARDS FOR BACKFITTING ENSURING FINALITY IN REGULATORY DECISIONS.	INTERIM DIRECTIVES TO THE STAFF HAVE BEEN ISSUED AND A ADVANCED NOTICE OF PROPOSED RULEMAKING (48 FR 44217) CONCERNING THE DEVELOPMENT OF A NEW BACKFITTING RULE HAS BEEN PUBLISHED. NRC IS CURRENTLY ON A PATH THAT COULD LEAD TO A FINAL RULE ON BACKFITTING BY LATE 1984.
THE CONGRESS, THE PRESIDENT AND NRC SHOULD ACT TO IMPROVE THE SAFETY FOCUS AND MANAGEMENT CAPABILITY OF THE NRC.	THE NRC IS CONTINUING TO WORK TOWARDS IMPROVEMENTS IN THESE AREAS, FOR EXAMPLE THE AGENCY'S MOST RECENT POLICY AND PLANNING GUIDANCE HIGHLIGHTS NRC'S PRIME OBJECTIVES. THE NRC IS ALSO REEVALUATING THE ISSUE OF COMMUNICATIONS BETWEEN THE COMMISSION AND THE NRC TECHNICAL STAFF ON MATTERS BEING ADJUDICATED. A RULE IS

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RECOMMENDATION

NRC ACTIVITY

BEING PREPARED FOR COMMISSION CONSIDERATION. THE DECENTRALIZATION OF CERTAIN NRC HEADQUARTERS PROGRAMS TO THE REGIONS IS ESSENTIALLY COMPLETE. OUR EFFORTS TO OBTAIN AN AGREEMENT WITH GSA FOR CONSOLIDATION OF NRC HEADQUARTERS OFFICES, HOWEVER, HAVE BEEN UNSUCCESSFUL.

THE COMMISSION AGREES THAT MANAGEMENT OF THE AGENCY COULD BE ENHANCED BY PLACING GREATER AUTHORITY AND RESPONSIBILITY WITH THE CHAIRMAN AND THE EXECUTIVE DIRECTOR FOR OPERATIONS. IN THIS REGARD, THE REORGANIZATION PLAN NO. 1 OF 1980 APPROVED BY THE CONGRESS HAS HAD A POSITIVE IMPACT ON NRC MANAGEMENT EFFECTIVENESS. THE GRACE COMMISSION, WHILE AGREEING THAT THE REASONS UNDERLYING THE KEMENY AND ROGOVIN

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Recommendation	NRC Activity
	RECOMMENDATIONS FOR A SINGLE ADMINISTRATOR REMAIN SOUND, CONCLUDED THAT IT WAS NOT TIMELY SO SOON AFTER ADOPTION OF THE 1980 PLAN TO REOPEN THE QUESTION OF A SINGLE ADMINISTRATOR VERSUS COMMISSION FORM OF MANAGEMENT. THEY RECOMMENDED ALTERNATIVELY THAT ENHANCED AUTHORITY CAN BE PROVIDED TO THE CHAIRMAN TO PERMIT HIM TO FUNCTION MORE EFFECTIVELY AS THE CHIEF EXECUTIVE AND ADMINISTRATIVE OFFICER OF THE AGENCY WHILE PRESERVING THE COLLEGIAL FORM OF NRC FOR BROAD POLICY AND ADJUDICATORY FUNCTIONS. THIS AUTHORITY, THEY STATED, SHOULD PERMIT THE CHAIRMAN TO DELEGATE ADMINISTRATIVE FUNCTIONS TO THE EXECUTIVE DIRECTOR FOR OPERATIONS, AS NEEDED, TO ENABLE THE EDO

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RECOMMENDATION	NRC ACTIVITY
	TO DISCHARGE THE ROLE OF CHIEF OPERATING OFFICER OF THE AGENCY. SPECIFICALLY THEY RECOMMENDED THAT THE CHAIRMAN BE GIVEN STATUTORY AUTHORITY COMPARABLE TO THAT VESTED IN THE CHAIRMAN OF FERC AND THE HEADS OF MOST OTHER INDEPENDENT REGULATORY AGENCIES. THEY STATED THAT IN THE CASE OF NRC THIS WOULD PRINCIPALLY MEAN ENLARGING THE CHAIRMAN'S AUTHORITY TO INCLUDE APPOINTMENT OF SENIOR OFFICIALS WHOSE SELECTION IS NOW SUBJECT TO COMMISSION APPROVAL; ALLOCATION OF RESOURCES AND DISTRIBUTION OF WORK; AND REMOVING THE CURRENT AUTHORITY OF A VOTING MAJORITY OF THE COMMISSION TO DETERMINE THAT SPECIFIC

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RECOMMENDATION	NRC ACTIVITY
	MATTERS OR AREAS OF ACTIVITY ARE OF A "POLICY" NATURE AND THEREFORE BEYOND THE CHAIRMAN'S EXECUTIVE AUTHORITY. COMMISSIONERS GILINSKY AND ASSELSTINE WOULD NOT GIVE THE CHAIRMAN AND THE EDO GREATER AUTHORITY THAN PROVIDED BY THE REORGANIZATION PLAN. SUCH ACTION WOULD BE INCONSISTENT WITH THE COMMISSIONERS' HAVING AN EQUAL VOICE ON POLICY QUESTIONS. DURING RECENT BUDGET TESTIMONY COMMISSSIONER GILINSKY STATED THAT AS A PRACTICAL MATTER A COMMISSION OF FIVE MEMBERS MAY BE TOO UNWIELDY. HE SUGGESTED REDUCING THE SIZE OF THE COMMISSION TO THREE MEMBERS. COMMISSIONER ROBERTS

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RECOMMENDATION	NRC ACTIVITY
	STATED THAT THIS DID NOT GO FAR ENOUGH AND THAT THE AGENCY SHOULD HAVE ONE ADMINISTRATOR. CHAIRMAN PALLADINO TESTIFIED THAT, ALTHOUGH EARLIER HE HAD SUPPORTED THE COMMISSION FORM, HE NOW BELIEVES A SINGLE ADMINISTRATOR TO BE PREFERABLE. THE CHAIRMAN AND COMMISSIONER ROBERTS ALSO BELIEVE THAT IT MAY NOW BE TIMELY TO REOPEN THE QUESTION OF A SINGLE ADMINISTRATOR VERSUS COMMISSION FORM OF MANAGEMENT. HOWEVER, IF THE CONGRESS DOES NOT WISH TO REOPEN THIS QUESTION, THE CHAIRMAN WOULD WELCOME CONGRESSIONAL IMPLEMENTATION OF THE GRACE COMMISSION RECOMMENDATION TO PROVIDE AUTHORITY TO THE

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RECOMMENDATION	NRC ACTIVITY
	CHAIRMAN TO FUNCTION MORE EFFECTIVELY AS THE CHIEF EXECUTIVE AND ADMINISTRATIVE OFFICER OF THE NRC.
	WHILE THE COMMISSION AGREES THAT SAFETY RESPONSIBILITY SHOULD BE THE PRIMARY FOCUS OF THE AGENCY'S ATTENTION, THE COMMISSION ALSO BELIEVES THAT THE EFFORT IT EXPENDS ON INTERNATIONAL MATTERS -- WHILE SUBSTANTIAL -- HAS MERIT. ANTITRUST REVIEWS AND RELATED ACTIVITIES, WHICH IN THE PAST HAD REQUIRED SIGNIFICANT NRC RESOURCES, CURRENTLY REQUIRE ONLY MINIMAL STAFF EFFORT.

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RECOMMENDATION	NRC ACTIVITY
NRC SHOULD IMPROVE WORKING INTERFACE WITH LICENSEES FOR MORE EFFECTIVE INTERACTION IN PURSUING MUTUAL SAFETY GOALS.	NRC HAS ENCOURAGED THE ESTABLISHMENT OF AND WORKS IN CLOSE COOPERATION WITH THE INSTITUTE FOR NUCLEAR POWER OPERATIONS; NRC IS INVOLVED IN COOPERATIVE RESEARCH PROGRAMS WITH THE NUCLEAR INDUSTRY AND IS WORKING DIRECTLY WITH UTILITIES TO DEVELOP INDIVIDUAL PLANT SCHEDULES FOR THE INCORPORATION OF NRC REQUIREMENTS, BASED ON BOTH NRC PRIORITIES AND UTILITY RESOURCE AVAILABILITY.
NRC SHOULD CONCENTRATE PARTICULAR MANAGEMENT ATTENTION PROGRAMS THAT INVOLVE INTERAGENCY PARTICIPATION SUCH AS WASTE MANAGEMENT AND EMERGENCY PLANNING.	NRC HAS EFFECTIVE PROGRAMS WITH DOE IN SUPPORT OF THE NWPA AND WITH FEMA IN ON REGARD TO EMERGENCY PLANNING.

QUESTION 7. What steps have been taken to implement sections 18, 19, 20, and 22 of the Nuclear Regulatory Commission authorization for Fiscal Year 1982 and 1983 (P.L. 97-415)? Please discuss in detail the steps that have and will be taken by the Commission to conform its regulations to the general environmental standards recently promulgated by the Environmental Protection Agency.

ANSWER.

Sections 18, 19, 20, and 22 of Public Law 97-415 amended sections of the Uranium Mill Tailings Radiation Control Act of 1978 that apply to the Department of Energy, the Environmental Protection Agency, and the Nuclear Regulatory Commission. In Section 18, guidelines were established for Commission action in the event EPA failed to promulgate its standards by October 1, 1983. Because EPA did promulgate its standard by that date these

GUIDELINES ARE NO LONGER GERMANE TO COMMISSION ACTION. COMMISSION ACTION IS NOW DICTATED BY THE ADDITIONAL REQUIREMENT IN SECTION 18 TO CONFORM NRC REGULATIONS TO THOSE PROMULGATED BY EPA.

SECTION 18 ALSO REQUIRED NRC TO SUSPEND CERTAIN OF ITS LICENSING REGULATIONS WHICH WERE DEEMED TO BE INCONSISTENT WITH THE EPA STANDARDS WHEN THEY WERE FIRST PROPOSED. IN ACCORDANCE WITH THIS REQUIREMENT, THE NRC PUBLISHED ON AUGUST 4, 1983, (48 FR 35350) THE INTERIM SUSPENSION OF SOME OF ITS LICENSING REGULATIONS. THE RULES SUSPENDED BY NRC WILL REMAIN SUSPENDED UNTIL APRIL 1, 1984 OR UNTIL NRC PROMULGATES FINAL CONFORMING REGULATIONS, WHICHEVER OCCURS EARLIER.

SECTION 19 AMENDED § 274c OF THE ATOMIC ENERGY ACT TO ALLOW AGREEMENT STATES TO ADOPT ALTERNATIVE STANDARDS, AFTER A COMMISSION DETERMINATION, ON NOTICE AND OPPORTUNITY FOR PUBLIC

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HEARING, THAT SUCH ALTERNATIVE STANDARDS ARE EQUIVALENT TO NRC AND EPA STANDARDS. NO AGREEMENT STATES HAVE TAKEN ACTION UNDER THIS AUTHORITY.

SECTION 20 ADDED A NEW SUBSECTION 84C. TO THE ATOMIC ENERGY ACT THAT ALLOWS A LICENSEE TO PROPOSE ALTERNATIVES TO NRC REQUIREMENTS ON A SITE SPECIFIC BASIS. THE ALTERNATIVES MUST PROVIDE EQUIVALENT PROTECTION TO PUBLIC HEALTH, SAFETY, AND THE ENVIRONMENT. NO LICENSEE HAS TAKEN ACTION UNDER THIS AUTHORITY.

SECTION 22 ADDED A REQUIREMENT TO SECTIONS 84 AND 275 OF THE ATOMIC ENERGY ACT THAT NRC AND EPA CONSIDER ECONOMIC COST AND HEALTH AND ENVIRONMENTAL RISKS IN ESTABLISHING REQUIREMENTS AND STANDARDS. WE BELIEVE EPA ADEQUATELY ADDRESSED ECONOMIC CONCERNS IN ITS SUPPORTING MATERIALS FOR 40 CFR 192 (STANDARDS FOR MILL TAILINGS). THE NRC ADDRESSED ECONOMIC CONCERNS, AND BALANCED THEM AGAINST HEALTH, SAFETY, AND ENVIRONMENTAL RISKS IN ITS GENERIC ENVIRONMENTAL IMPACT STATEMENT OR URANIUM MILLING

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(NUREG-0706). As to tailings cover (and not ground water protection) the EPA standard to which NRC must now conform its regulations is less stringent than the original NRC regulations. In view of this fact the NRC may not need to perform any extensive further analysis of costs and benefits regarding tailings cover and reduction of radon emanation. Compliance with EPA's ground water protection standard may, however, be more costly and require further technical analysis and cost and benefit review.

The NRC has underway the development of modifications to 10 CFR Part 40, Appendix A, that will conform Appendix A to the EPA standards for radon emanation and tailings pile cover stability and longevity. The preparation of NRC regulations to conform to EPA's groundwater protection standards in 40 CFR Part 264 (incorporated by reference into 40 CFR Part 192) is proceeding separately and will take a significantly longer period of time to complete. It is not likely that NRC will be able to complete either set of conforming regulations by April 1, 1984.

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COMMISSIONER ROBERTS ADDS THAT SINCE THE ORIGINAL TWO-STEP APPROACH PROPOSED BY THE STAFF LAST DECEMBER PROVIDES A MEANS TO MEET THE STATUTORY DATE WHILE ALSO ALLOWING TIME FOR NEEDED COORDINATION WITH EPA, HE PERSONALY BELIEVES THAT IT WOULD BE PRUDENT TO RECEIVE PUBLIC COMMENTS ON THESE PROPOSALS AND THAT FURTHER DELAY IS UNNECESSARY.

QUESTION 8. ON JULY 8, 1983, THE COMMISSION SUBMITTED COMMENTS TO THE ENVIRONMENTAL PROTECTION AGENCY ON EPA'S PROPOSED STANDARDS FOR MANAGEMENT OF URANIUM AND THORIUM MILL TAILINGS AT LICENSED COMMERCIAL PROCESSING SITES. TO WHAT EXTENT, IF ANY, DO EPA'S FINAL STANDARDS, PROMULGATED ON OCTOBER 7, 1983, ADDRESS THE CONCERNS RAISED BY THE COMMISSION?

ANSWER.

THE PRINCIPAL NRC COMMENTS AND EPA'S RESPONSES IN ITS FINAL STANDARDS ARE SUMMARIZED BELOW:

DESIGN LIFETIME OF STABILIZATION MEASURES: NRC INDICATED THAT THE 1,000-YEAR DESIGN LIFETIME AND 200-YEAR MINIMUM TIME FOR STABILIZATION MEASURES WERE REASONABLE AND ACCEPTABLE TO NRC.

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RADON RELEASES: NRC COMMENTS SUGGESTED A HEALTH RISK GENERAL ENVIRONMENTAL STANDARD INSTEAD OF A LIMIT ON RADON FLUX FROM THE TAILINGS. THIS SUGGESTION WAS NOT ADOPTED AND THE RADON RELEASE WAS SET AT 20 PICOCURIES PER SQUARE METER PER SECOND.

GROUND WATER PROTECTION: NRC EXPRESSED THE VIEW THAT FURTHER EVALUATION WAS NEEDED BEFORE APPLYING SPECIFIC GROUND WATER PROVISIONS FROM EPA'S RCRA REGULATIONS TO URANIUM MILL TAILINGS. THE COMMENTS ALSO SUGGESTED SEVERAL AREAS RELATED TO GROUND WATER PROTECTION WHERE MORE FLEXIBILITY SHOULD BE PROVIDED, SUCH AS THE FLEXIBILITY TO USE CLAY LINERS IN LIEU OF MAN-MADE LINERS FOR IMPOUNDMENTS. THESE COMMENTS ON THE GROUND WATER PORTIONS OF THE PROPOSED EPA STANDARD WERE FOR THE MOST PART NOT ACCEPTED. SEVERAL SECTIONS OF THE RCRA HAZARDOUS WASTE REGULATIONS WERE INCLUDED IN THE FINAL EPA STANDARD, BY REFERENCE, IN ESSENTIALLY UNMODIFIED FORM. IN THE PREAMBLE TO THE FINAL

STANDARD, EPA ALSO EXPRESSED THE VIEW THAT NRC MUST ADDRESS VIRTUALLY ALL OF THE RCRA REGULATIONS TO MEET NRC'S UMTRCA RESPONSIBILITIES. EPA EXPLICITLY INCLUDED IN ITS FINAL STANDARD SPECIFIC SECTIONS OF THE RCRA REGULATIONS AS EXAMPLES OF WHAT NRC MUST ADDRESS.

A MORE DETAILED SUMMARY OF NRC COMMENTS AND EPA RESPONSES IS ENCLOSED.

ENCLOSURE:
SUMMARY OF NRC COMMENTS
AND EPA RESPONSES

Enclosure to Question 8

SUMMARY OF EPA RESPONSE TO NRC COMMENTS ON THE ACTIVE MILL STANDARD

Comment	Response
STABILITY	
o 1,000 year stability, 200 year minimum, acceptable to NRC for design lifetime of radiological control measures	None required. No changes.
RADON RELEASES	
o Prefer health risk environmental standard (0.3 pCi/l) instead of radon flux	Rejected
o Support ALARA approach for radon from tailings prior to disposal	Kept ALARA but indicated future rule being considered under Clean Air Act
o Use individual risk standard that does not distinguish between remote and populated sites	Rejected risk standard but applied standard equally to remote and populated sites
o Give some credit for government ownership of tailings to control access	No change in standard based on credit
GROUND WATER	
o Consider aquifer potential use	Rejected
o Alter design standard to allow use of clay liners	Rejected
o Dual regulation in exemptions and alternate ground water concentrations	Allowed NRC to approve certain alternate concentrations
o Provide more flexible ground water standards than RCRA/ drinking water	No change in standard itself but note item above

QUESTION 9. WHAT STEPS HAVE BEEN TAKEN BY THE COMMISSION TO IMPLEMENT THE NUCLEAR WASTE POLICY ACT OF 1982 (P.L. 97-425)? PLEASE PROVIDE A DETAILED SUMMARY, INCLUDING A SCHEDULE, OF THE ACTIONS THAT THE COMMISSION EXPECTS TO TAKE IN THE REMAINDER OF FISCAL YEAR 1984 AND FISCAL YEAR 1985.

ANSWER.

THE ENCLOSED SECTION-BY-SECTION SUMMARY OF THE WASTE POLICY ACT PROVIDES DETAILS AND CURRENT SCHEDULES FOR COMMISSION ACTIONS TO IMPLEMENT THE ACT DURING FISCAL YEARS 1984, 1985, AND BEYOND.*

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*Retained in committee files.

QUESTION 10. WHEN DOES THE COMMISSION EXPECT TO REACH A DECISION ON "CONCURRENCE" WITH THE DEPARTMENT OF ENERGY'S SITING GUIDELINES AND WHAT STEPS WILL BE TAKEN TO REACH THAT DECISION?

ANSWER.

FOLLOWING UP COMMENTS RECEIVED FROM REPRESENTATIVES OF INTERESTED STATES, TRIBES, INDUSTRY, AND CITIZENS GROUPS DURING AND AFTER THE COMMISSION'S PUBLIC MEETING JANUARY 11, THE COMMISSION PLANS TO PUBLISH A PRELIMINARY DRAFT DECISION FOR PUBLIC REVIEW AND COMMENT IN EARLY MARCH. THE COMMISSION CURRENTLY EXPECTS TO ISSUE A FINAL DECISION ON CONCURRENCE BY THE END OF APRIL, 1984.

QUESTION 11. PLEASE PROVIDE YOUR COMMENTS ON THE DEPARTMENT OF ENERGY'S DRAFT MISSION PLAN.

ANSWER.

THE NRC STAFF COMMENTS ON THE DRAFT OF VOLUME I OF THE MISSION PLAN, "OVERVIEW AND CURRENT PROGRAM PLANS," WERE TRANSMITTED TO MR. MICHAEL J. LAWRENCE, ACTING DIRECTOR OF THE OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT, ON FEBRUARY 8, 1984. A COPY OF THE LETTER AND DETAILED COMMENTS ARE ENCLOSED.*

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*Retained in committee files.

QUESTION 12. DOES THE COMMISSION CONSIDER IT TO BE (I) APPROPRIATE OR (II) LEGAL TO FUND THE COMMISSION'S HIGH-LEVEL WASTE PROGRAM ACTIVITIES OUT OF THE NUCLEAR WASTE FUND ESTABLISHED UNDER SECTION 302 OF THE NUCLEAR WASTE POLICY ACT OF 1982?

ANSWER.

(I) THE COMMISSION WOULD ONLY CONSIDER IT APPROPRIATE TO FUND ITS HIGH-LEVEL WASTE PROGRAM ACTIVITIES OUT OF THE NUCLEAR WASTE FUND IF THE INDEPENDENCE OF THE COMMISSION WERE PRESERVED AND COULD BE PERCEIVED TO HAVE BEEN PRESERVED. THUS, IF THE COMMISSION IS TO USE MONEYS FROM THE NUCLEAR WASTE FUND, THE AMOUNTS TO BE OBTAINED OUGHT NOT BE DETERMINED BY THE SECRETARY OF ENERGY, NOR SHOULD THE SECRETARY HAVE THE AUTHORITY TO INQUIRE INTO THE PURPOSES FOR WHICH THE FUNDS ARE EXPENDED OR THE AUTHORITY TO AUDIT EXPENDITURES THAT ARE MADE FROM TIME TO TIME.

THE FUNDAMENTAL PRINCIPLE TO BE KEPT IN MIND IS THAT THE COMMISSION IS AN INDEPENDENT REGULATORY AGENCY. IT MUST BE ABLE TO

Q 12

EVALUATE OBJECTIVELY THE MERITS OF ANY LICENSE APPLICATION SUBMITTED BY DOE; THE CAPACITY OF A LICENSE APPLICANT TO RESTRICT OR INFLUENCE THE COMMISSION'S JUDGMENT IS CONTRARY TO SOUND PRINCIPLES OF PUBLIC ADMINISTRATION.

(II) THE PURPOSES FOR WHICH THE WASTE FUND MAY BE USED ARE SPECIFIED IN SECTION 302(D) OF THE NWPA. THE FOLLOWING PORTIONS ARE PERTINENT:

> (D) ...THE SECRETARY MAY MAKE EXPENDITURES ...FOR PURPOSES OF....
>
> (1) ...LICENSING ...OF ANY REPOSITORY, MONITORED, RETRIEVABLE STORAGE FACILITY OR TEST AND EVALUATION FACILITY...;
>
> (2) THE CONDUCTING OF NONGENERIC RESEARCH, DEVELOPMENT, AND DEMONSTRATION ACTIVITIES...;
>
> (3) THE ADMINISTRATIVE COST OF THE RADIOACTIVE WASTE DISPOSAL PROGRAM;

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Q 12

THE QUESTION REGARDING FUNDING OF COMMISSION ACTIVITIES WAS NOT ADDRESSED DURING THE CONSIDERATION OF NWPA. THERE ARE SOME EXPRESSIONS OF INTENTION TO HAVE THE FUNDING MECHANISM COVER "THE FULL COST OF THE DISPOSAL OF CIVILIAN NUCLEAR WASTE" (128 CONG. REC. § 15666, DAILY ED. DEC. 20, 1982). MOREOVER, UNDER SECTION 302(A)(4), THE FEES TO BE PAID INTO THE WASTE FUND MAY BE ADJUSTED "IN ORDER TO RECOVER THE COSTS INCURRED BY THE FEDERAL GOVERNMENT," WHICH IMPLIES THAT THE STATUTE CONTEMPLATES PAYMENT FOR COSTS INCURRED BY FEDERAL AGENCIES OTHER THAN DOE. THE HOUSE COMMITTEE ON ENERGY AND COMMERCE COMMENTED, IN ITS REPORT ON H.R. 6598, THAT "ALL ACTIVITIES OF THE SECRETARY AUTHORIZED BY THIS ACT AND ALL ADDITIONAL ACTIVITIES REQUIRED TO ESTABLISH, CONSTRUCT, LICENSE, OPERATE AND EVENTUALLY DECOMMISSION REPOSITORIES" ARE TO BE PAID FOR OUT OF THE WASTE FUND; SUCH "ADDITIONAL ACTIVITIES" MIGHT HAVE BEEN UNDERSTOOD TO INCLUDE ACTIVITIES OF THE COMMISSION, H.R. REP. 785, PART 1 AT 79 (1982). ON THE OTHER HAND, THE COST ANALYSES CONSIDERED IN CONNECTION WITH THE LEGISLATION WERE BASED UPON DEPARTMENT OF ENERGY

ESTIMATES WHICH APPEAR NOT TO HAVE CONSIDERED NON-DOE EXPENDITURES. SEE 128 CONG. REC. § 4164-69 (DAILY ED. APRIL 28, 1982).*

CERTAIN COMMISSION COSTS ARE THEREFORE ARGUABLY REIMBURSABLE FROM THE WASTE FUND. SPECIFICALLY, THOSE COSTS THAT ARE ALLOCABLE TO SPECIFIC SITES MIGHT BE CHARGED TO THE WASTE FUND AS COSTS OF "LICENSING," PURSUANT TO SECTION 302(D)(1). SIMILARLY, INVESTIGATIONS CARRIED OUT BY NRC WITH RESPECT TO SUCH SITES MIGHT BE RECOVERABLE AS "NONGENERIC RESEARCH" ACTIVITIES UNDER SECTION 302(D)(2). OTHER NRC COSTS - SUCH AS THOSE INCURRED FOR GENERIC REGULATORY RESEARCH AND RULEMAKING - COULD ONLY BE CHARGED TO THE WASTE FUND UNDER A STRAINED CONSTRUCTION OF THE "ADMINISTRATIVE COST" REFERRED TO IN SECTION 302(D)(3). A DEFINITIVE INTERPRETATION OF THE ISSUES PRESENTED WOULD REQUIRE A FURTHER, MORE DETAILED, ANALYSIS OF THE LEGISLATIVE HISTORY.

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* ONE SUCH DOE STUDY IS "PRELIMINARY ESTIMATES OF THE CHARGE FOR SPENT-FUEL STORAGE AND DISPOSAL SERVICES," DOE/ET-0055 (1978).

QUESTION 13. PLEASE SUMMARIZE THE STATUS OF THE COMMISSION'S EFFORTS IN REGARD TO RESTART OF THREE MILE ISLAND UNIT NUMBER ONE.

ANSWER.

THE COMMISSION ON SEPTEMBER 8, 1983 ISSUED A DECISION IN THE RESTART PROCEEDING WHICH COMPLETED ITS REVIEW OF EMERGENCY PREPAREDNESS AT TMI-1. THE COMMISSION CONCLUDED THAT EMERGENCY PREPAREDNESS IS ADEQUATE FOR RESTART, SUBJECT TO CERTIFICATION BY THE NRC STAFF THAT THE VARIOUS CONDITIONS RELATING TO EMERGENCY PLANNING IMPOSED BY THE LICENSING AND APPEAL BOARDS HAVE BEEN SATISFIED.

IN MAY 1983, THE ATOMIC SAFETY AND LICENSING APPEAL BOARD ISSUED AN OPINION DEALING WITH ISSUES OF PLANT DESIGN AND PROCEDURES, AND THE PHYSICAL SEPARATION OF TMI-1 AND TMI-2. THE COMMISSION HAS AGREED TO TAKE REVIEW OF FIVE SPECIFIC ISSUES IN THAT DECISION IN ACCORDANCE WITH COMMISSION PROCEDURE (ASLB ORDER, ENCLOSURE A).*

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*Retained in committee files.

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THE APPEAL BOARD IS CONTINUING ITS REVIEW OF THE LICENSING BOARD'S DECISIONS ON THE MANAGEMENT ISSUES AND THE CHEATING INCIDENTS. ON AUGUST 31, 1983, THE APPEAL BOARD ORDERED THE HEARING REOPENED IN THE MANAGEMENT PHASE OF THE PROCEEDING TO RECEIVE ADDITIONAL TESTIMONY ON CERTAIN ALLEGATIONS FROM A FORMER CONTROL ROOM OPERATOR, MR. HAROLD HARTMAN, CHARGING IMPROPRIETIES IN DETERMINING REACTOR COOLANT SYSTEM LEAK RATES AT THREE MILE ISLAND UNIT 2 PRIOR TO THE MARCH 1979 ACCIDENT. SUBSEQUENTLY, THE COMMISSION TOOK REVIEW OF THE ISSUE OF WHETHER THE REOPENED HEARING SHOULD PROCEED PRIOR TO COMPLETION OF THE NRC INVESTIGATION OF THESE ALLEGATIONS AND STAYED THE APPEAL BOARD ORDER PENDING THIS DECISION.

MEANWHILE, IN NOVEMBER 1983, A FEDERAL GRAND JURY RETURNED AN 11 COUNT INDICTMENT AGAINST METROPOLITAN EDISON COMPANY, THE FORMER OPERATOR OF TMI-2, FOR ALLEGED CRIMINAL MISCONDUCT BEFORE THE 1979 ACCIDENT. THIS INDICTMENT STEMMED FROM THE HARTMAN ALLEGATIONS. THE CRIMINAL TRIAL IS ANTICIPATED TO BEGIN EARLY

THIS YEAR. AT THE REQUEST OF THE DEPARTMENT OF JUSTICE, NRC HAS DEFERRED FURTHER ACTION ON THE HARTMAN ALLEGATIONS UNTIL CONCLUSION OF THE CRIMINAL TRIAL PROCEEDINGS. HOWEVER, WE ARE INVESTIGATING OTHER ISSUES GENERALLY RELATED TO MANAGEMENT INTEGRITY AT TMI.

AT A MEETING ON JANUARY 27, 1984, THE COMMISSION ANNOUNCED A PROCESS INTENDED TO LEAD TO A DECISION BY JUNE 1984 ON WHETHER OR NOT TO ALLOW RESTART. UNDER THAT PROCESS, TEMPORARY SEPARATION FROM NUCLEAR OPERATION OF SOME GPU EMPLOYEES AND OTHER ACTIONS, INCLUDING THOSE PROPOSED BY GPU, WOULD SERVE AS AN INTERIM SOLUTION TO THE PENDING OPEN ITEMS WHICH OTHERWISE COULD DELAY A DECISION ON RESTART. THE COMMISSION ALSO STATED THAT A RESTART DECISION NEED NOT AWAIT THE COMPLETION OF THE CRIMINAL TRIAL AGAINST METROPOLITAN EDISON COMPANY. A COPY OF THAT NOTICE IS ATTACHED.*

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*Retained in committee files.

Q 13

THE TMI-1 PLANT MODIFICATIONS AND ACTIONS RESULTING FROM THE RESTART PROCEEDINGS ARE ESSENTIALLY COMPLETE AND THE LICENSEE HAS COMPLETED ALL STEAM GENERATOR REPAIRS. HEARINGS HAVE BEEN REQUESTED ON THE LICENSE AMENDMENT REQUIRED TO PERMIT OPERATION WITH THE REPAIRED STEAM GENERATORS, AND DISCOVERY IS NOW UNDERWAY. THE COMMISSION IS REVIEWING THE STAFF'S PROPOSED DETERMINATION THAT NO SIGNIFICANT HAZARDS CONSIDERATION IS PRESENT AND HAS DIRECTED THAT THE STAFF DEFER ISSUANCE OF THE AMENDMENT PENDING A COMMISSION DECISION.

IN A FURTHER DEVELOPMENT FEMA REGION III, IN A RECENT REPORT ON AN EMERGENCY PREPAREDNESS EXERCISE FOR TMI-1 CONDUCTED ON NOVEMBER 16, 1983, IDENTIFIED FIVE SIGNIFICANT DEFICIENCIES IN OFF-SITE EMERGENCY PLANNING FOR TWO COUNTIES SURROUNDING TMI-1. FEMA HEADQUARTERS HAS NOT YET PROVIDED ITS JUDGMENT AND DETERMINATION AS TO WHETHER THOSE DEFICIENCIES ARE, IN FACT, SIGNIFICANT AND WHETHER, BECAUSE OF THE DEFICIENCIES, REASONABLE

Q 13

ASSURANCE THAT ADEQUATE PROTECTIVE MEASURES CAN AND WILL BE TAKEN IN THE EVENT OF A RADIOLOGICAL EMERGENCY IS LACKING. THE NRC STAFF IS CURRENTLY IN CONSULTATION WITH FEMA HEADQUARTERS ON THIS MATTER BUT UNTIL FEMA HEADQUARTERS PROVIDES ITS JUDGMENT ON THE SIGNIFICANCE OF THE DEFICIENCIES IDENTIFIED BY THE FEMA REGION, WE DO NOT KNOW WHAT THE EFFECT OF THOSE DEFICIENCIES WILL BE ON THE OPERATION OF TMI-1.

BASED ON FEMA'S JUDGMENT ON THE SIGNIFICANCE OF THE IDENTIFIED DEFICIENCIES AND PURSUANT TO 10 CFR § 50.54(s)(2), THE NRC WILL DETERMINE WHETHER, IN VIEW OF THE DEFICIENCIES, REASONABLE ASSURANCE THAT ADEQUATE PROTECTIVE MEASURES CAN AND WILL BE TAKEN IN A RADIOLOGICAL EMERGENCY IS LACKING. THIS MATTER WILL BE ADDRESSED AS PART OF THE CONSIDERATION FOR RESTART.

QUESTION 14. PLEASE SUMMARIZE THE STATUS OF THE CLEANUP OF THREE MILE ISLAND UNIT NUMBER TWO.

ANSWER.

THE STATUS OF CLEANUP AT THREE MILE ISLAND UNIT 2 (TMI-2) IS DISCUSSED IN THE COMMISSION'S PREPARED TESTIMONY. FOR CONVENIENCE, IT IS REPEATED BELOW:

"AT TMI-2, MUCH OF THE RADIOACTIVITY THAT WAS DISPERSED WITHIN THE PLANT DURING THE ACCIDENT HAS BEEN IMMOBILIZED, PACKAGED AND SHIPPED OFF-SITE FOR ULTIMATE DISPOSITION. HOWEVER, THE MOST DIFFICULT TASK, DEFUELING, HAS NOT YET BEGUN.

"CLEANUP OF THE REACTOR BUILDING ITSELF HAS PROVEN TO BE UNEXPECTEDLY DIFFICULT BECAUSE OF RECONTAMINATION PROBLEMS AND HIGH RADIATION LEVELS FROM FIXED SOURCES OF RADIATION. THESE PROBLEMS HAVE BEEN CAUSED IN PART BY DELAYS IN CLEANUP EFFORT. ADDITIONALLY, THE ORIGINAL SCHEDULES FOR POLAR CRANE

Q 14

REQUALIFICATION AND REACTOR VESSEL HEAD LIFT HAVE BEEN DELAYED BY AT LEAST A YEAR, PARTIALLY AS A RESULT OF THE INVESTIGATION OF ALLEGATIONS BY FORMER AND CURRENT GPU AND CONTRACTOR EMPLOYEES CONCERNING ADMINISTRATIVE AND PROCEDURAL DEFICIENCIES IN CLEANUP ACTIVITIES.

"THE UTILITY ESTIMATES THAT DURING CALENDAR YEAR 1984 ONLY $75 MILLION WILL BE AVAILABLE FOR CLEANUP ACTIVITIES. ALTHOUGH THE EDISON ELECTRIC INSTITUTE HAS SOUGHT VOLUNTARY PLEDGES FROM MEMBER UTILITY COMPANIES TO CONTRIBUTE TO TMI-2 CLEANUP FUNDING, PLEDGES HAVE NOT REACHED THE $100 MILLION LEVEL REQUIRED BEFORE ANY DISBURSEMENTS CAN BE MADE. THE INTERNAL REVENUE SERVICE RECENTLY RULED THAT DOMESTIC UTILITIES WILL BE PERMITTED TO WRITE OFF CONTRIBUTIONS TOWARD THE TMI-2 CLEANUP AS A BUSINESS EXPENSE. THIS RULING COULD ENCOURAGE ADDITIONAL CONTRIBUTIONS. IN ADDITION, JAPANESE POWER COMPANIES HAVE TENTATIVELY AGREED TO CONTRIBUTE $18 MILLION TO RESEARCH AND DEVELOPMENT ASPECTS OF THE CLEANUP EFFORT.

"THESE RECENT EVENTS HOLD SOME PROMISE OF HELP FOR THE UTILITY'S EFFORTS TO SECURE COMMITTED FUNDING FOR FUTURE CLEANUP ACTIVITIES. HOWEVER, THEY DO NOT PROVIDE MUCH CONFIDENCE THAT THE APPROXIMATELY $600 MILLION EFFORT STILL REMAINING WILL BE ADEQUATELY FUNDED OR EXPEDITIOUSLY COMPLETED. GIVEN THE EXISTING FUNDING UNCERTAINTIES AND THE FORMIDABLE TECHNICAL PROBLEMS THAT THE UTILITY MUST OVERCOME, THE COMMISSION HAS SERIOUS RESERVATIONS ABOUT GPU MEETING THEIR CURRENT SCHEDULE FOR COMPLETING FUEL REMOVAL IN 1986.

"WHILE WE BELIEVE THAT ADEQUATE PROTECTION OF PUBLIC HEALTH AND SAFETY IS CURRENTLY BEING MAINTAINED, THE COMMISSION IS CONCERNED ABOUT THE SLOW PACE OF THE CLEANUP, PRIMARILY BECAUSE OF THE INCREASING POTENTIAL FOR UNFORESEEN PROBLEMS ARISING. THE COMMISSION BELIEVES IT MAY BE TIME FOR THE CONGRESS AND THE EXECUTIVE BRANCH TO CONSIDER NEW APPROACHES. I [CHAIRMAN PALLADINO] PERSONALLY BELIEVE THAT AN APPROACH SIMILAR TO THAT USED AT THE WEST VALLEY SITE SHOULD BE CONSIDERED. IN THE MEANTIME, WITHIN NRC'S LEGAL AUTHORITY, THE COMMISSION AND ITS STAFF WILL CONTINUE TO PLACE A HIGH PRIORITY ON TMI-2 AND MONITOR CLOSELY THE LICENSEE'S ACTIVITIES IN ORDER TO HELP BRING ABOUT A SAFE AND EXPEDITIOUS CLEANUP."

QUESTION 15. IN TESTIMONY BEFORE THE SUBCOMMITTEE IN 1983 THE COMMISSION INDICATED THAT IT WAS PURSUING A NUMBER OF ADMINISTRATIVE CHANGES TO ADDRESS CONCERNS WITH THE NRC'S LICENSING AND REGULATORY PROCESS. PLEASE SUMMARIZE THE STATUS OF THESE EFFORTS, INCLUDING A SCHEDULE OF WHEN FINAL AGENCY ACTION ON EACH OF THESE INITIATIVES CAN BE EXPECTED.

ANSWER.

PROPOSED ADMINISTRATIVE CHANGES TO THE NRC'S LICENSING REGULATORY PROCESS CONCERN: (1) BACKFITTING; (2) REVISING THE ROLE OF THE STAFF AS A PARTY TO PROCEEDINGS; (3) EX PARTE AND SEPARATION OF FUNCTIONS; AND (4) THE HEARING PROCESS. THESE PROPOSALS ARE IN VARIOUS STAGES OF DEVELOPMENT AS INDICATED BELOW:

BACKFITTING. ALTHOUGH EACH OF THE FOUR AREAS OF PROPOSED CHANGE SUGGEST FINAL ACTION BY RULEMAKING, THE COMMISSION HAS TAKEN

Q 15

INTERIM ACTION IN THE AREA OF BACKFITTING BY ISSUING A STAFF REQUIREMENTS MEMO (SRM) ON JUNE 22, 1983. THE PURPOSE OF THE SRM WAS TO PROVIDE IMMEDIATE GUIDANCE TO THE STAFF REGARDING BACKFITTING. THE STAFF HAS PROVIDED AN IMPLEMENTATION PLAN WHICH THE COMMISSION APPROVED ON FEBRUARY 8, 1984 SO THAT THE SRM IS CURRENTLY IN EFFECT.

STAFF FORWARDED PROPOSED PROCEDURES REGARDING BACKFITTING FOR OPERATING REACTORS ON AUGUST 5, 1983 AND THE COMMISSION HAS APPROVED THESE STAFF PROPOSALS WITH MINOR MODIFICATIONS. THESE PROCEDURES ARE ALSO BEING PUBLISHED FOR PUBLIC COMMENT.

THE STAFF ALSO FORWARDED PROPOSED PROCEDURES FOR REACTORS UNDER CONSTRUCTION ON DECEMBER 9, 1983, AND THE COMMISSION HAS NOT COMPLETED ACTION ON THESE STAFF PROPOSALS.

Q 15

COMMISSIONER ROBERTS ADDS:

WHILE THE SRM IS A STEP IN THE RIGHT DIRECTION, IT FALLS SHORT OF THE MARK. FIRST, IT IS APPLICABLE ONLY TO OPERATING REACTORS AND DOES NOT HELP THOSE PLANTS WITH APPROVED CONSTRUCTION PERMITS WHICH ARE NOT YET LICENSED. SECOND, THE SRM DOES NOT REQUIRE THE STAFF TO INITIALLY MAKE A DETAILED ANALYSIS AND PROVIDE A RATIONALE FOR THE IMPOSITION OF THE BACKFIT. GIVEN THE FACT THAT THE BACKFIT RULE WAS NOT ENFORCED FOR OVER A DECADE, I BELIEVE THAT THE COMMISSION SHOULD CAREFULLY EVALUATE PROPOSED BACKFITS TO ENSURE THAT NEW REQUIREMENTS "WILL PROVIDE SUBSTANTIAL ADDITIONAL PROTECTION WHICH IS REQUIRED FOR THE PUBLIC HEALTH AND SAFETY." 10 CFR 50.109(A). (EMPHASIS ADDED)

ON AUGUST 30, 1983, FOR ACTIONS OVER THE LONG-TERM THE COMMISSION DECIDED TO ISSUED A POLICY STATEMENT AND ADVANCED NOTICE OF PROPOSED RULEMAKING (ANPR) FOR BACKFITTING. THAT POLICY STATEMENT AND ANPR WERE PUBLISHED IN THE FEDERAL REGISTER

Q 15

September 28, 1983. Comments have been received, and the staff summarized those comments and presented them to the Commission for its consideration in a meeting held on February 22, 1984. A final backfit rule is anticipated to be issued by the Commission in late 1984.

Commissioner Roberts adds:

I do not believe that this advance notice of proposed rulemaking represents a sincere effort by the Commission to achieve an improved and functional set of regulations and procedures to manage the "backfitting" process. Rather, in this step, the majority has displayed its intention to delay implementation of meaningful steps which would ensure that backfits are required only when they are necessary and when they would result in substantial additional safety. Furthermore, I disagree with the majority view that the separately published Policy Statement on Backfitting provides for an effective interim management of

BACKFITS. THE TWO STEPS TAKEN TO DATE BY THE COMMISSION, I.E., THE ESTABLISHMENT OF THE CRGR AND THE JUNE 22, 1983 COMMISSION DIRECTIONS TO THE STAFF ARE INSUFFICIENT. THE CRGR APPLIES ONLY TO GENERIC REQUIREMENTS AND THE JUNE 22, 1983 GUIDANCE APPLIES ONLY TO LICENSED COMMERCIAL REACTORS. THE FAILURE TO HAVE AN EFFECTIVE FRAMEWORK IN EFFECT HAS BEEN CITED BY REGULATORS AND THE INDUSTRY AS A MAJOR SOURCE OF UNCERTAINTY AND INSTABILITY.

A REVIEW OF RECENT RULEMAKING EFFORTS WOULD DEMONSTRATE THAT THE PROCESS IS A PARTICULARLY LENGTHY ONE WHEN PUBLICATION OF AN ADVANCE NOTICE IS INVOLVED. RECENT CASES SHOW THAT, IN FACT, AN AVERAGE DURATION BETWEEN ADVANCE NOTICE AND PROPOSED RULE PUBLICATION IS WELL OVER TWO YEARS. THE COMMISSION HAS ALREADY BEEN PROVIDED WITH SUFFICIENT COMMENTS, INFORMATION, AND ALTERNATIVES TO PROCEED DIRECTLY WITH A PROPOSED RULE ON BACKFITTING. THE REGULATORY REFORM TASK FORCE, THE AD HOC COMMITTEE FOR REVIEW OF NUCLEAR REACTOR REFORM, THE ATOMIC

INDUSTRIAL FORUM, THE SENIOR ADVISORY GROUP, NUMEROUS LICENSEES, AND OTHERS HAVE PROVIDED VALUABLE INPUT AND PROPOSALS. IT IS NOW TIME FOR ACTION.

IN SHORT, THE NRC IS ALREADY CAPABLE OF ANSWERING THE QUESTIONS POSED IN THIS ADVANCED NOTICE OF RULEMAKING. EVEN IF SOME REQUIRE FURTHER REFLECTION ON THESE QUESTIONS, THIS WOULD NOT PRECLUDE THE ABILITY OF THE COMMISSION TO GO FORWARD WITH PROPOSED RULEMAKING.

THE ROLE OF THE STAFF. THE COMMISSION PUBLISHED AN ANPR ON THE ROLE OF THE STAFF AS A PARTY IN THE FEDERAL REGISTER ON NOVEMBER 3, 1983. COMMENTS HAVE BEEN RECEIVED AND A STAFF SUMMARY OF THOSE PUBLIC COMMENTS SHOULD BE PRESENTED TO THE COMMISSION BY EARLY MARCH 1984 FOR COMMISSION CONSIDERATION. THE FINAL RULE ON THE ROLE OF THE STAFF IS ANTICIPATED TO BE ISSUED BY THE COMMISSION IN LATE 1984.

EX PARTE AND SEPARATION OF FUNCTIONS. THE COMMISSION HELD A MEETING ON SEPTEMBER 7, 1983 TO DISCUSS THIS SUBJECT. PURSUANT TO THAT MEETING A REDRAFT OF THE PROPOSED FEDERAL REGISTER NOTICE WAS PREPARED AND PRESENTED TO THE COMMISSION ON OCTOBER 3, 1983. CURRENTLY THE OFFICE OF THE GENERAL COUNSEL IS REVIEWING THE PROPOSED FEDERAL REGISTER NOTICE WITH A VIEW TOWARD FURTHER REVISION. THE MATTER WILL BE DISCUSSED AGAIN IN A FUTURE COMMISSION MEETING. THE COMMISSION ANTICIPATES ISSUING A RULE IN EARLY 1985.

HEARINGS. IN A MEETING OF NOVEMBER 16, 1983 THE COMMISSION CONSIDERED PUBLISHING, FOR PUBLIC COMMENT, SUGGESTED CHANGES TO 10 CFR, PART 2, AS PROFFERED BY THE REGULATORY REFORM TASK FORCE IN ITS REPORT TO THE COMMISSION. THESE PROPOSALS WOULD BE PROVIDED FOR PUBLIC COMMENT ONLY AND DO NOT NECESSARILY REFLECT THE VIEWS OF THE TASK FORCE OR THE COMMISSION. APPROPRIATE REVISIONS HAVE BEEN MADE TO THE ORIGINAL TASK FORCE PROPOSAL AND THE COMMISSION MAY DECIDE BY NOTATION VOTE IN FEBRUARY 1984 TO PUBLISH THE PROPOSALS IN THE FEDERAL REGISTER. IF SO, PUBLICATION SHOULD OCCUR IN MARCH 1984. A FINAL RULE IS ANTICIPATED TO BE ISSUED BY THE COMMISSION IN MID-TO-LATE 1985.

QUESTION 16. WHAT STEPS, IF ANY, HAVE BEEN TAKEN IN RESPONSE TO THE RECENT REPORT OF THE GENERAL ACCOUNTING OFFICE ON THE NRC'S RESEARCH ACTIVITIES?

ANSWER.

THE RECENT REPORT OF THE GENERAL ACCOUNTING OFFICE ARRIVED AT TWO CONCLUSIONS WITH REGARD TO NRC'S RESEARCH ACTIVITIES: (1) A TRACKING SYSTEM IS NEEDED TO HELP NRC ENSURE THAT NUCLEAR SAFETY RESEARCH IS RELEVANT AND THAT THE RESULTS ARE USED TO THE FULLEST EXTENT IN THE REGULATORY PROCESS; AND (2) TO ENSURE THAT UNNECESSARY DUPLICATION OF RESEARCH WORK DOES NOT OCCUR, THE AGENCIES (NRC AND DOE) MUST COORDINATE THEIR WORK.

THE GAO REPORT STATED THAT COORDINATION BETWEEN DOE AND NRC HAS OCCURRED. IN REGARD TO THE FIRST CONCLUSION, NRC'S OFFICE OF NUCLEAR REGULATORY RESEARCH HAS IMPLEMENTED AN INDEXING SYSTEM FOR RESEARCH PROJECTS INTENDED TO BE USED FOR DISSEMINATING INFORMATION ON THE REGULATORY OBJECTIVE, EXPECTED END USE AND SEMI-ANNUAL STATUS ON THE ACTUAL USE OF RESEARCH RESULTS. THE SYSTEM WILL ALSO PROVIDE A FULL COMPILATION OF DESCRIPTIVE AND FINANCIAL INFORMATION ON ALL RESEARCH CONTRACTS. THE FIRST COMPLETE REPORT WILL BE AVAILABLE IN LATE MARCH AT WHICH TIME ITS USEFULNESS WILL BE EVALUATED.

QUESTION 17. WHAT IS THE STATUS OF THE COMMISSION'S RESPONSE TO SECTION 306 OF THE NUCLEAR WASTE ACT OF 1982? WHAT STEPS, IF ANY, HAS THE COMMISSION TAKEN TO COORDINATE ITS EFFORTS UNDER THIS PROVISION WITH THE EFFORTS OF THE INSTITUTE FOR NUCLEAR POWER OPERATIONS?

ANSWER.

A REPORT TO CONGRESS ON THE STATUS OF ACTIVITIES ASSOCIATED WITH THE DEVELOPMENT OF RULEMAKING ACTIONS, AS MANDATED BY P.L. 97-425, SECTION 306, WAS SUBMITTED ON JANUARY 20, 1984 (COPY ATTACHED).* AS INDICATED IN THE STATUS REPORT, THE FINAL RULES ON OPERATOR LICENSING AND TRAINING AND QUALIFICATIONS OF THE CIVILIAN NUCLEAR POWER PLANT PERSONNEL ARE EXPECTED IN NOVEMBER 1984. THE PROPOSED RULEMAKING PACKAGE WAS SUBMITTED TO THE COMMISSION FOR CONSIDERATION ON FEBRUARY 13, 1984.

THE NRC STAFF HAS BEEN WORKING WITH THE STAFF OF THE INSTITUTE FOR NUCLEAR POWER OPERATIONS IN DEVELOPING THE RESPONSE TO

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*Retained in committee files.

SECTION 306 OF THE WASTE POLICY ACT. ADDITIONALLY, THE NRC STAFF HAS PROPOSED UTILIZING THE INPO ACCREDITATION PROGRAM TO THE EXTENT FEASIBLE, AS A MEANS OF MEETING THE INTENT OF THE TRAINING PORTIONS OF THE PROPOSED RULE.

QUESTION 18. PLEASE DISCUSS THE COMMISSION'S PROCEDURE FOR ADDRESSING AND RESOLVING "ALLEGATIONS" REGARDING THE CONSTRUCTION AND OPERATION OF COMMERCIAL NUCLEAR POWERPLANTS. HOW MANY SUCH ALLEGATIONS HAVE BEEN FILED? BY WHOM? FOR WHAT PLANTS? AT WHAT TIME? OF THE ALLEGATIONS THAT HAVE BEEN FILED, IS THERE ANY EVIDENCE TO SUGGEST THAT "LAST MINUTE ALLEGATIONS" ARE BECOMING AN INCREASINGLY FREQUENT PHENOMENON, THAT RAISE ISSUES THAT COULD HAVE BEEN RAISED MUCH EARLIER IN THE PROCESS? OF THE ALLEGATIONS THAT HAVE BEEN FILED AND INVESTIGATED BY THE COMMISSION, HOW MANY HAVE LED TO SIGNIFICANT HEALTH AND SAFETY DISCOVERIES?

(A) PLEASE DISCUSS THE COMMISSION'S PROCEDURE FOR ADDRESSING AND RESOLVING "ALLEGATIONS" REGARDING THE CONSTRUCTION AND OPERATION OF COMMERCIAL NUCLEAR POWERPLANTS.

Q 18

ANSWER.

ALLEGATIONS PERTAINING TO NRC LICENSED FACILITIES AND ACTIVITIES ARE RECEIVED FROM MANY SOURCES OUTSIDE THE AGENCY. MOST ALLEGATIONS ARE RECEIVED IN THE REGIONS WHERE AN INVESTIGATION/ ALLEGATION COORDINATOR (IAC) SERVES AS THE FOCAL POINT FOR ADMINISTRATIVE PROCESSING AND CONTROL OF ALL ALLEGATIONS. ALL ALLEGATIONS MUST BE DOCUMENTED, SCREENED AND EVALUATED. THE IAC IS RESPONSIBLE FOR REVIEWING ALL INFORMATION RECEIVED REGARDING AN ALLEGATION AND FOR ENSURING THAT MANAGEMENT AND COGNIZANT TECHNICAL STAFF MEMBERS ARE FULLY INFORMED. THE IAC ASSISTS THE COGNIZANT TECHNICAL STAFF, WHO ARE RESPONSIBLE FOR EVALUATING THE DOCUMENTATION AND FOR RESOLVING EACH ALLEGATION WHICH FALLS WITHIN ITS JURISDICTION.

IN NOVEMBER 1982 AN NRC ALLEGATIONS TRACKING SYSTEM (ATS) WAS INITIATED. RECENTLY, THE EXECUTIVE DIRECTOR FOR OPERATIONS HAS TAKEN FURTHER STEPS TO IMPROVE THE PROCESSING OF ALLEGATIONS INVOLVING APPLICATIONS FOR OPERATING LICENSES AND TO ASSURE

Q 18

NECESSARY COORDINATION AMONG THE VARIOUS ACTION OFFICES (SUCH AS REGIONS, NRR, IE, OI OR NMSS) WITHIN THE AGENCY.

NRC POLICIES FOR DEALING WITH PERSONS BRINGING ALLEGATIONS SEEK TO ASSURE THAT ALLEGERS ARE TREATED WITH PROFESSIONAL COURTESY, THAT OUR TECHNICAL REVIEWS OF THE ISSUES RAISED ARE TECHNICALLY COMPLETE, AND THAT NRC STAFF ARE OBSERVANT OF PROCEDURES WHICH RECOGNIZE THE SPECIAL PROBLEMS FACED BY PERSONS MAKING ALLEGATIONS REGARDING IMPROPER SAFETY CONDITIONS AND PRACTICES. NRC POLICIES AND PROCEDURES FOR PROCESSING ALLEGATIONS RECEIVED ARE PRESENTED IN THE FOLLOWING DOCUMENTS (COPIES ATTACHED):

(A) MEMORANDUM, W. J. DIRCKS TO THE CHAIRMAN AND COMMISSIONERS, "REGIONAL PROCEDURES FOR SCREENING ALLEGATIONS" AND ATTACHED "REPORT ON REGIONAL PROCEDURES FOR SCREENING, ASSESSMENT AND CONTROL OF ALLEGATIONS," DATED OCTOBER 28, 1983.*

(B) MEMORANDUM, W. J. DIRCKS TO OFFICE DIRECTORS AND REGIONAL

*Retained in committee files.

Q 18

ADMINISTRATORS, "POLICY IN REGARD TO DEALING WITH THOSE WHO PROVIDE INFORMATION TO THE NRC," DATED JANUARY 6, 1984.*

(c) SECY INFORMATION PAPER, SECY-84-26, W.J. DIRCKS TO THE COMMISSION, ENTITLED "STAFF PROCESSING OF ALLEGATIONS INVOLVING APPLICATIONS FOR OPERATING LICENSES", DATED JANUARY 20, 1984.*

AN NRC MANUAL CHAPTER TO CODIFY THE NRC'S POLICIES AND PROCEDURES FOR PROCESSING ALLEGATIONS IN A MORE FORMAL WAY IS PRESENTLY UNDER PREPARATION.

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*Retained in committee files.

Q 18

QUESTION 18. (B) HOW MANY SUCH ALLEGATIONS HAVE BEEN FILED?

ANSWER.

IT WOULD BE DIFFICULT TO GIVE AN ACCURATE COUNT OF THE TOTAL NUMBER OF ALLEGATIONS RECEIVED IN THE PAST. HOWEVER, FROM THE TIME THAT WE FORMALLY IMPLEMENTED OUR ALLEGATION TRACKING SYSTEM ON DECEMBER 2, 1982 THROUGH FEBRUARY 1, 1984, A TOTAL OF 704 ALLEGATION DOCUMENTS HAVE BEEN FILED IN THE SYSTEM. SOME OF THE ALLEGATION DOCUMENTS CONTAIN MULTIPLE CONCERNS SO THAT THE TOTAL NUMBER OF IDENTIFIED CONCERNS IS CONSIDERABLY LARGER THAN THE TOTAL NUMBER OF ALLEGATION DOCUMENTS.

QUESTION 18. (c) BY WHOM?

ANSWER.

ALLEGATIONS HAVE BEEN SUBMITTED BY VARIOUS INDIVIDUALS AND GROUPS INCLUDING LICENSEE EMPLOYEES, CONTRACTOR EMPLOYEES, FORMER EMPLOYEES OF THESE ORGANIZATIONS, AND PUBLIC INTEREST GROUPS SUCH AS THE GOVERNMENT ACCOUNTABILITY PROJECT AND THE UNION OF CONCERNED SCIENTISTS.

RECENTLY, THE TERM "ALLEGATIONS" WAS REDEFINED TO INCLUDE A BROADER SET OF SAFETY CONCERNS ORIGINATED OUTSIDE NRC EVEN IF NOT PROVIDED BY AN "ALLEGER". THIS WOULD INCLUDE, FOR EXAMPLE, THE TECHNICAL AUDIT REPORTS RECEIVED FROM TWO CONGRESSMEN REGARDING THE PULLMAN CONTRACTOR AT DIABLO CANYON.

Q 18

QUESTION 18. (D) FOR WHAT PLANTS?

ANSWER.

ALLEGATIONS HAVE BEEN SUBMITTED ON ABOUT 95% OF THE NUCLEAR PLANTS UNDERGOING DESIGN AND CONSTRUCTION AND ABOUT 50% OF THOSE IN OPERATION.

Q 18

QUESTION 18. (E) AT WHAT TIME?

ANSWER.

GENERALLY, THE GREATEST NUMBER OF ALLEGATIONS ARE SUBMITTED ON PLANTS IN THE DESIGN AND CONSTRUCTION PHASE, AND THE MAJORITY OF THESE ALLEGATIONS ARISE DURING THE LATTER STAGES OF CONSTRUCTION.

QUESTION 18. (F) OF THE ALLEGATIONS THAT HAVE BEEN FILED, IS THERE ANY EVIDENCE TO SUGGEST THAT "LAST MINUTE ALLEGATIONS" ARE BECOMING AN INCREASINGLY FREQUENT PHENOMENON, THAT RAISE ISSUES THAT COULD HAVE BEEN RAISED MUCH EARLIER IN THE PROCESS?

ANSWER.

NRC HAS RECEIVED NUMEROUS LAST MINUTE ALLEGATIONS ON PROJECTS NEARING COMPLETION AND A LICENSING DECISION. NOTABLE EXAMPLES INCLUDE DIABLO CANYON, WATERFORD, CATAWBA, LASALLE 1 & 2, BYRON AND SHOREHAM. SUCH A PHENOMENON MAY BE ATTRIBUTED TO HIGH MEDIA INTEREST, HEARINGS UNDERWAY, AND PUBLIC INTEREST GROUPS THAT HAVE DECIDED TO BECOME INVOLVED IN CERTAIN PROJECTS. IN MANY OF THE ALLEGATIONS IN THESE INSTANCES, THE CONCERNS RAISED ARE NOT RECENT CONCERNS BUT RATHER COVER SITUATIONS WHICH OCCURRED SOMETIME AGO AND THE ALLEGER DECIDED HE/SHE NOW HAS REASON TO RAISE THE ISSUE. WHILE THIS PHENOMENON HAS NOT OCCURRED ON ALL PROJECTS NEARING A LICENSING DECISION, IT IS EXPECTED THAT SUCH ACTIVITY WILL NOT DIMINISH AND PERHAPS INCREASE, ESPECIALLY FOR HEAVILY-CONTESTED PROJECTS.

Q 18

QUESTION 18. (G) OF THE ALLEGATIONS THAT HAVE BEEN FILED AND INVESTIGATED BY THE COMMISSION, HOW MANY HAVE LED TO SIGNIFICANT HEALTH AND SAFETY DISCOVERIES?

ANSWER.

MANY ALLEGATIONS ARE STILL BEING PROCESSED. OF THOSE THAT HAVE BEEN PROCESSED, THE MAJORITY ARE ULTIMATELY DISPOSITIONED AS INSIGNIFICANT OR UNSUBSTANTIATED. SOME CANNOT BE CATEGORIZED AS SIGNIFICANT OF AND BY THEMSELVES BUT WHEN TAKEN TOGETHER, MAY CAUSE A CITATION TO BE ISSUED.

A NUMBER OF ALLEGATIONS HAVE CONTRIBUTED IN A SIGNIFICANT WAY BY FOCUSSING ATTENTION UPON PROCEDURES AND PRACTICES THAT ARE NOT IN CONFORMANCE WITH THE HIGH STANDARDS ESTABLISHED TO ASSURE PUBLIC HEALTH AND SAFETY. THE ALLEGATIONS HAVE LED US TO PROBE DEEPER INTO AREAS WE HAVE BEEN CONCERNED ABOUT AS A RESULT OF OTHER ON-GOING REGULATORY ACTIVITIES, OR HAVE DIRECTED OUR ATTENTION TO

Q 18

SPECIFIC MATTERS IN BROAD AREAS ABOUT WHICH WE HAVE HAD GENERAL CONCERN. WE VIEW ALLEGATIONS AS ONE OF THE MEANS AVAILABLE TO US TO DO OUR JOB EFFECTIVELY. WHEN MADE IN A CONSTRUCTIVE AND TIMELY MANNER, THEY CAN BE VERY EFFECTIVE. DEFICIENT PROCEDURES AND PRACTICES CAN BE CORRECTED BEST WHEN IDENTIFIED AT AN EARLY STAGE IN THEIR USE.

QUESTION 19. PLEASE DISCUSS THE COMMISSION'S IMPLEMENTATION OF SECTION 12 OF PUBLIC LAW 97-415, INCLUDING THE COMMISSION'S CORRECT [SIC, "CURRENT"] APPROACH TO MAKING "NO SIGNIFICANT HAZARDS CONSIDERATION" DETERMINATIONS.

ANSWER.

SECTION 12 OF PUBLIC LAW 97-415, AMONG OTHER THINGS, AUTHORIZES THE COMMISSION TO ISSUE AND TO MAKE IMMEDIATELY EFFECTIVE AN AMENDMENT TO AN OPERATING LICENSE UPON A DETERMINATION THAT THE AMENDMENT INVOLVES NO SIGNIFICANT HAZARDS CONSIDERATIONS, EVEN THOUGH IT HAS BEFORE IT A REQUEST FOR A HEARING FROM AN INTERESTED PERSON. THE COMMISSION REQUESTED THIS LEGISLATION BECAUSE OF THE IMPLICATIONS OF THE REQUIREMENT IN SHOLLY V. NRC, 651 F.2D 780 (1980), REHEARING DENIED, 651 F.2D 792 (1980), CERT. GRANTED 101 S. CT. 3004 (1981) (SHOLLY) THAT THE COMMISSION GRANT A REQUESTED HEARING BEFORE IT COULD ISSUE A LICENSE AMENDMENT INVOLVING NO SIGNIFICANT HAZARDS CONSIDERATION. THE COMMISSION BELIEVES THAT, SINCE MOST REQUESTED LICENSE AMENDMENTS INVOLVING

Q 19

NO SIGNIFICANT HAZARDS CONSIDERATIONS ARE ROUTINE IN NATURE, PRIOR HEARINGS ON SUCH AMENDMENTS COULD RESULT IN UNNECESSARY DISRUPTION OR DELAY IN THE OPERATIONS OF NUCLEAR POWER PLANTS BY IMPOSING REGULATORY BURDENS UNRELATED TO SIGNIFICANT SAFETY OR HEALTH MATTERS.

ON APRIL 6, 1983, THE COMMISSION PUBLISHED IN THE FEDERAL REGISTER TWO RULES (48 FR 14864 AND 48 FR 14873) RESPONDING TO THE STATUTORY DIRECTIVE IN PUBLIC LAW 97-415. THAT LAW DIRECTED THAT THE COMMISSION PROMULGATE EXPEDITIOUSLY REGULATIONS WHICH ESTABLISH (A) STANDARDS FOR DETERMINING WHETHER AN AMENDMENT TO AN OPERATING LICENSE INVOLVES NO SIGNIFICANT HAZARDS CONSIDERATIONS, (B) CRITERIA FOR PROVIDING, OR IN EMERGENCY SITUATIONS, FOR DISPENSING WITH PRIOR NOTICE AND PUBLIC COMMENT ON ANY SUCH DETERMINATION, AND (C) PROCEDURES FOR CONSULTING ON ANY SUCH DETERMINATION WITH THE STATE IN WHICH THE FACILITY IS LOCATED.

Q 19

THE COMMISSION TRIED TO DEVELOP STANDARDS THAT, TO THE MAXIMUM EXTENT PRACTICABLE, DRAW A CLEAR DISTINCTION BETWEEN LICENSE AMENDMENTS THAT INVOLVE A SIGNIFICANT HAZARDS CONSIDERATION AND THOSE THAT INVOLVE NO SIGNIFICANT HAZARDS CONSIDERATION. THE COMMISSION COUPLED TO THE STANDARDS VARIOUS EXAMPLES TO BE USED AS GUIDELINES IN ORDER TO HELP DRAW DISTINCTIONS AS CLEARLY AS PRACTICABLE.

THE COMMISSION USES THE FOLLOWING THREE STANDARDS TO DECIDE WHETHER OR NOT A SIGNIFICANT HAZARDS CONSIDERATION IS INVOLVED IN AN AMENDMENT, NAMELY, WHETHER THE LICENSE AMENDMENT WOULD: (1) INVOLVE A SIGNIFICANT INCREASE IN THE PROBABILITY OR CONSEQUENCES OF AN ACCIDENT PREVIOUSLY EVALUATED, (2) CREATE THE POSSIBILITY OF AN ACCIDENT OF A TYPE DIFFERENT FROM ANY EVALUATED PREVIOUSLY, OR (3) INVOLVE A SIGNIFICANT REDUCTION IN A MARGIN OF SAFETY. AS NOTED ABOVE, COUPLED WITH THESE STANDARDS ARE EXAMPLES WHICH ARE USED AS GUIDELINES. THE STANDARDS AND EXAMPLES ARE USUALLY

Q 19

LIMITED TO A "PROPOSED DETERMINATION" ABOUT WHETHER OR NOT SIGNIFICANT HAZARDS CONSIDERATIONS ARE INVOLVED IN CONNECTION WITH AN AMENDMENT AND, THEREFORE, WHETHER OR NOT TO OFFER AN OPPORTUNITY FOR A HEARING BEFORE AN AMENDMENT IS ISSUED. THE DECISION ABOUT WHETHER OR NOT TO ISSUE AN AMENDMENT IS A SEPARATE MATTER BASED UPON A PUBLIC HEALTH AND SAFETY FINDING.

THUS, THE RULES NORMALLY PROVIDE FOR PRIOR NOTICE OF A "PROPOSED ACTION" ON AN APPLICATION FOR AN AMENDMENT. IN FACT, THE COMMISSION HAS SEPARATE NOTICE AND STATE CONSULTATION PROCEDURES THAT PROVIDE IN ALL, EXCEPT EMERGENCY, SITUATIONS PRIOR NOTICE (AND AN OPPORTUNITY FOR A HEARING) OF AMENDMENT REQUESTS. HENCE, IF A REQUESTED LICENSE AMENDMENT IS FOUND TO INVOLVE A SIGNIFICANT HAZARDS CONSIDERATION, THE AMENDMENT WOULD NOT BE ISSUED UNTIL AFTER ANY REQUIRED HEARING IS COMPLETED OR AFTER THE EXPIRATION OF THE NOTICE PERIOD.

QUESTION 20. PLEASE PROVIDE A SUMMARY OF THE COMMISSION'S LITIGATION ACTIVITY FOR THE PAST YEAR, INCLUDING A STATUS REPORT ON ALL PENDING CASES.

ANSWER.

ENCLOSED IS A SUMMARY OF THE COMMISSION'S LITIGATION ACTIVITY FOR THE PAST YEAR.*

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*Retained in committee files.

QUESTION 21. PLEASE DISCUSS THE STATUS OF THE COMMISSION'S EFFORTS TO COORDINATE ITS REGULATORY ACTIVITIES WITH THE RESPONSIBILITIES OF THE ENVIRONMENTAL PROTECTION AGENCY FOR ESTABLISHING GENERAL ENVIRONMENTAL STANDARDS FOR ACTIVITIES REGULATED BY THE COMMISSION. IS THE COMMISSION SATISFIED THAT SUFFICIENT COORDINATION IS TAKING PLACE, OR IS THERE A NEED FOR LEGISLATIVE CLARIFICATION IN ANY OF THE VARIOUS AREAS.

ANSWER.

DURING THE DEVELOPMENT OF EPA'S GENERALLY APPLICABLE ENVIRONMENTAL STANDARDS, VARIOUS LEVEL NRC STAFF HAVE BEEN ACTIVELY INVOLVED IN DISCUSSIONS AND IN PROVIDING COMMENTS ON WHAT WAS BEING CONSIDERED BY EPA. RECENTLY NRC AND EPA MANAGEMENT MET TO EXPLORE THE AREAS AND ISSUES THAT REQUIRE SENIOR MANAGEMENT ATTENTION AND TO HIGHLIGHT SPECIFIC AREAS WHERE POLICY DECISIONS ARE NEEDED. THE DISCUSSIONS FOCUSED ON THE LOW-LEVEL AND URANIUM MILL TAILINGS STANDARDS AND THE CLEAN AIR ACT. THE GENERAL

Q 21

PROBLEMS OF DUAL REGULATION, UNRESOLVED JURISDICTIONAL ISSUES, AND CONFLICTING SCHEDULES DUE TO DIFFERENT AGENCY'S PRIORITIES WERE ADDRESSED. ARRANGEMENTS WERE MADE TO REFINE THE CONCERNS OF EACH AGENCY IN PREPARATION FOR THE MEETING CHAIRMAN PALLADINO HAS REQUESTED WITH ADMINISTRATOR RUCKELSHAUS FOR SOME TIME IN THE NEAR FUTURE.

RICHARD F. WALKER

PRESIDENT OF PUBLIC SERVICE COMPANY OF COLORADO

AND

CHAIRMAN OF GAS-COOLED REACTOR ASSOCIATES

Mr. Chairman and Members of the Subcommittee, my name is Richard F. Walker, and I am President of Public Service Company of Colorado and Chairman of Gas-Cooled Reactor Associates (GCRA) which is a utility/user organization that supports the development of the High Temperature Gas-Cooled Reactor (HTGR). At present, the GCRA constituency represents approximately one-third of the installed generation capacity in the U.S. In addition, participating GCRA utilities have a substantial investment in and extensive experience with nuclear power. This background of nuclear experience provides GCRA with a sound base for evaluating the HTGR as a commercial alternative. GCRA's role is to apply this base of experience in guiding the development of the HTGR to be fully responsive to utility/user requirements. A GCRA staff, supported solely by utility funds, has been in place since 1978 conducting HTGR concept evaluations, Project planning and development activities, and Program integration support services to DOE, including the management of architect-engineer resources and other plant-level design development activities.

GCRA's objective is to establish the HTGR as an attractive commercial alternative in a timely manner. The approach to achieving this objective has been to establish a Lead Project from which commercial follow-on plants can be deployed. Despite the recent turmoil associated with nuclear energy, a systematic assessment of candidate HTGR systems, with the participation of potential vendors and owners, culminated in 1981 with the selection of a four-loop, 2240 MWt/855 MWe steam cycle plant as the reference Lead Project candidate. The market for this plant is the medium to large baseload capacity additions for electricity generation or cogeneration of steam and electricity, as well as the replacement market for retiring medium to large fossil and LWR plants. The Lead Project focus established to date has been responsive to the Congressional bases of support and has been instrumental in gaining Program stability. To date, the U.S. government and industry have invested approximately $1.5 billion in the HTGR, most of which is applicable to the Lead Plant. In particular, approximately $50 million has been invested in the conceptual design of the Lead Plant.

The reference Lead Plant candidate, like all HTGR concepts, is characterized by unique features that distinguish it from the current generation of nuclear power systems. The most notable of these features is the inherent safety and low environmental impact characteristics that translate to less reliance on engineered safety systems, added margins for meeting certain licensing criteria, added margins for plant investment protection, greater siting flexibility and reduced radiation exposure of plant personnel.

It is GCRA's position that the 2240 MWt HTGR is a viable candidate for a private sector Lead Project initiative. This position is supported by numerous independent assessments of the design and by operating experience with Fort St. Vrain and other gas-cooled reactors throughout the world. Confidence in the industry's ability to construct and operate plants of this size comes from recognition of the successes experienced by nuclear qualified utilities with large nuclear power facilities in the U.S. and abroad. Ongoing programmatic activities should emphasize the application of the conceptual baseline documentation, to be completed in FY 1984, for substantive pre-review interactions with the NRC on HTGR-specific licensing criteria.

During the past year, there have been a number of introspective studies and surveys, including a broad utility survey by GCRA, on the future of the nation's nuclear power industry. A recurrent message from these efforts is the need for the development of smaller, simpler nuclear power plants with minimal reliance on engineered safeguard systems. Within the HTGR Program, two smaller alternatives to the 2240 MWt system have been identified that offer added dimensions of simplicity that may translate to overall performance and economic advantages. In one approach, a 1170 MWt/425 MWe design has been configured that was originally conceived simply as a two loop version of the reference four loop Lead Plant. However, with an emerging market interest in plants of this size range, an optimized version of an HTGR in this size range should be evaluated. Some of the key areas that must be addressed are as follows:

1) The approach to decay heat removal, including the use of passive systems.

2) The number and size of primary system coolant loops, the configuration of the PCRV and the ability to use a confinement rather than a containment-type enclosure.

3) The optimum approach to multiple unit plants and the sharing of common systems and facilities, plus greater use of modularity and conventional plant construction standards.

4) The closer evaluation of the features of the German HTR-500 (MWe) concept that is targeted for project commitment decisions by the end of 1985.

In the second alternative to the 2240 MWt system, an HTGR Modular Reactor System (MRS) has been conceived as independent reactor units of approximately 250 MWt/100 MWe that can be constructed as a cluster of modules or sequentially constructed to more closely match load growth requirements and reduce utility cash flow needs. Design work on the MRS is relatively recent, and less than $5M has been invested in defining and evaluating the concept. However, much of the technology investment for the Lead Plant is applicable for the MRS. Further, much of the HTGR technology investment in the Federal Republic of Germany, including the AVR developmental plant and the THTR demonstration plant, is expected to be particularly applicable to the MRS concept.

The intent of the MRS concept is to achieve greater inherent safety by removing the decay heat by the passive mechanisms of radiation, conduction, and natural convection without reliance on active engineered safeguard systems. The concept is based on limiting the core size and power density such that the fuel particle coatings retain the fission products to an acceptable degree (yet to be defined) under all circumstances, including the loss of all forced circulation or the failure of the pressure boundary. The economic challenge of the MRS concept is for the design simplicity afforded by the passive safety attributes to offset the economy of scale advantages of larger, integrated nuclear plants. To do so, it is intended that the nuclear steam (or heat) supply system will be shop fabricated to nuclear standards and the balance of plant field erected to predominantly conventional fossil plant standards. This approach is expected to improve the low productivities, reduce the schedules and reduce the field erection costs encountered on most of the recent nuclear projects.

The MRS concept is in the early stages of evaluation. Some of the key issues that must be addressed are as follows:

1) Sufficient design must be conducted to support economic analyses that will examine sensitivities in the costs and schedules for the modular HTGRs versus the integrated HTGRs and the other alternatives.

2) The safety goals of the MRS must be specifically defined and translated to licensing requirements and engineering terms. Key issues are the development and acceptance of design basis events, source terms and allowable fission product releases.

3) The design and development programs required to demonstrate the unique, inherent safety features of the MRS must be defined. Central to the MRS concept is the use of a fuel for which high integrity and low fission product release can be assured under all postulated reactor conditions. These design requirements place provisions on fuel manufacturing and performance that require extensive verification.

If commercial feasibility of the MRS is established, it is envisioned to serve the small to medium baseload generation and cogeneration markets as well as the replacement market for some of the retiring oil and gas-fired units that have been used for baseload applications. Further, the unit size of the MRS makes it particularly attractive as an export product to developing nations. It is GCRA's view that the MRS concept has significant technical and licensing potential. If economic incentives for the MRS are borne out in thorough technical studies, there will be justifiably strong utility/user support.

Common to any of the HTGR concepts and potential Lead Projects is the need to resolve critical licensing issues that affect any commitment decision. These issues create a barrier to such a commitment either because they introduce uncertainty as to the ability to license a new concept within a given schedule, or because a prejudicial application of LWR licensing precedents could lead to a non-economical HTGR design. We believe the former barrier can be minimized by a licensing process which provides for an early design approval, prior to construction commitment. The latter barrier can be minimized by a top-down development of licensing criteria which consider the unique characteristics of the HTGR. It should be noted that this latter barrier is especially important in the evaluation of the potential for smaller, more inherently safe HTGR designs.

With regard to these barriers, we have been most heartened by the recent progress made in HTGR-related activities at the NRC. On November 15 of last year we were invited to brief the Commissioners on the status of the HTGR Program and safety characteristics of the HTGR design. Subsequent to that briefing, the Commission began work on the development of a specific regulatory policy for advanced reactors which, we understand, specifically recognizes the need for special attention to the HTGR. The NRC Research Program achieved a major milestone recently by completing a multi-laboratory effort which assesses the anticipated or potential radiological releases that could result from severe accidents in a large gas-cooled reactor. This study provides a preliminary, but nonetheless comprehensive, basis for evolving criteria which recognize the inherent safety features of the HTGR.

In order to build upon the progress made in the last year and to support the continued resolution of licensing issues, we respectfully recommend that the HTGR Program at the NRC be funded at a level of $4 million in FY 1985. The NRC Program should continue its present efforts to develop the criteria and bases for licensing HTGR plants, as well as supporting any Fort St. Vrain licensing development issues. The NRC Program should focus on (1) the development of NRC positions on procedural matters, technical approaches and data requirements pertinent to the pre-construction approval of an HTGR design; (2) the establishment of general design criteria and siting criteria specifically for gas-cooled reactors; and (3) the development of HTGR-related code cases and technical positions. In this latter area, in support of the evaluation of smaller HTGR plants, it would be particularly instructive if the preliminary assessment of potential radiological releases from HTGRs completed last year was amended to consider the inherent advantages of the smaller core sizes.

The above effort should, of course, be coordinated with the DOE-funded HTGR development activities to assure the efficient use of national resources. Further consideration should also be given to expanding cooperative efforts with the Federal Republic of Germany and Japan.

Mr. Chairman, we recognize that these budget recommendations must be considered in the context of a constrained budget and economic environment. However, we feel that industry support for the Program and the need for the HTGR option is stronger than ever. With continued Congressional support for FY 1985, we will continue to make real progress toward the realization of the HTGR technology. Thank you for the opportunity to present the Utility/User viewpoint to your Subcommittee.

TMIA: THREE MILE ISLAND ALERT, INC.
315 Peffer St., Harrisburg, Penna. 17102 (717) 233-7897

February 24, 1984

Senator John Heinz
U.S. Senate
Washington, D.C. 20510

Dear Senator Heinz:

As an attorney who has been closely involved in the TMI-1 restart case for several years, I would like to express my sincere appreciation for the time and effort you have recently expended on the restart issue. The residents of Central Pennsylvania greatly appreciate the concern you have shown in attempting to hold the NRC accountable for the manner with which they are handling this case, and to restore some integrity to the restart process.

During your questioning of the Commissioners at last Thursday's hearing before the Nuclear Regulation subcommittee, which I attended along with a number of others from the Harrisburg area, you raised several very important questions concerning the pending criminal indictments against Met Ed and the impact of such issues on the current integrity of GPU Nuclear, the licensed operator of TMI. As representive of an intervening party in the restart case, and one who is intimately familiar with the restart record, I thought it might be useful to provide you with some insights from that record which address some of the concerns you have raised.

Thus, I have enclosed two documents. The first enclosure addresses the claim made by GPU and a majority of the NRC Commissioners that the current licensee is a different organization than the one in charge before and during the accident and currently under indictment, or the subject of "unresolved" integrity issues. The second attachment is a restart case chronology, which may assist in better understanding the steps which have led to the current restart situation.

I would be glad to discuss these issues or other aspects of the restart record with you or your staff at any time. Please do not hesitate to contact me with any questions or comments.

Very sincerely,

Joanne Doroshow

Joanne Doroshow

Enclosures

cc:
Senator Simpson with Encls.
Senator Mitchell with Encls.

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ENCLOSURE 1

1. A substantial number of current GPU Nuclear management personnel came directly from the GPU Service Corporation.

At least half of the current GPUN Vice Presidents came directly from the GPU Service Corporation. Former GPUN President Bob Arnold, recently removed for his involvement in open "integrity" issues, also came from GPUSC. GPUSC was the GPU subsidiary in official charge of Unit 2 until it went commercial in December, 1978 -- three months before the accident. By that time, leak rate falsification had allegedly already become an established pattern at TMI-2.

2. Messrs. Kuhns and Dieckamp are still in charge of TMI.

From the time of the accident through today, Mr. William Kuhns has been Chairman of the Board of GPU and all of its subsidiaries, including Met Ed which was recently indicted, GPUN, and GPU Service Corporation. From the time of the accident through last month, Mr. Herman Dieckamp was Chief Executive Officer and a member of the Board of GPU and all of its subsidiaries, and President of GPU. Last month, Dieckamp was removed as Chief Executive Officer of GPU Nuclear, but remains CEO of the parent corporation and the other subsidiaries, and a Board member of all corporations including GPUN. He is still President of GPU.

3. Michael Ross, current Manager of Operations at Unit 1, may be implicated in leak rate falsification.

Michael Ross, current Manager of Operations at Unit 1, and found by the NRC's Atomic Safety and Licensing Board to possibly be "the most important person on the TMI-1 operation team as far as public health and safety are concerned," PID ¶155, was the Supervisor of Operations at TMI-1 during the pre-accident period. Ross was found by the Special Master who presided over the so-called "cheating hearings" to have engaged in serious, post-accident wrongdoing at TMI, and to have given non-credible testimony during those hearings. When the NRC's Region I investigated Mr. Ross's potential involvement in Unit 2 falsification, they determined,

> [h]e may have been aware of leak rate testing difficulties at TMI-2 since he held a dual license for both units. However, he would have had no reason to be involved in the TMI-2 testing activities other than during periods, if any, when he may have been serving as shift supervisor on TMI-2. A similar problem did not exist at TMI-1.

Inspection Report 50-289/83-10, p. 10-5.

Not only do the investigators fail to reach a definitive conclusion regarding Ross' involvement in or knowledge of Unit 2 falsification, they mistate the situation at Unit 1, currently under NRC investigation for similar activities, which could certainly implicate Mr. Ross. Further, the conclusion that Ross would have had limited involvement in Unit 2 is unfounded, and in fact belies the fact that during the accident, Ross was expressly called in to assist in decision making tasks, serving on the company's "command team" set up to interpret and stabilize the accident.

4. A former Unit 2 Operator, who may have been involved in or have had knowledge of leak rate falsification, is a Unit 1 Training Supervisor.

Ed Frederick, a unit 2 operator during the pre-accident period and an individual being investigated for changing testimony during the B&W trial, is now Supervisor of Licensed Training at TMI-1. As such, he is in charge of training all control room operators at Unit 1. His involvement in leak rate falsification will certainly be a subject of the criminal trial.

5. Most Open Integrity Issues Concern Post-Accident Events.

Besides the leak rate falsification issue, most every integrity issue now considered open, unresolved, or under investigation, concerns post-accident events, most of which directly implicate current GPU, GPUN GPUSC, or Met-Ed management. It is simply incorrect to state, as Chairman Palladino did during last Thursday's hearings in explaining why the Commission considers the issues of little consequence, that the questions concern pre-accident incidents.

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TMI Restart Chronology
February 1, 1984
(prepared by Joanne Doroshow)

March 28, 1979 -- TMI-2 accident

May 22, 1979 -- Former control room operator Harold W. Hartman, Jr. tells NRC investigators that for months before the accident, operators, with the knowledge of at least low level management, systematically falisified primary coolant system leak rates in violation of the operating license in order to keep the plant running. NRC investigators do not investigate Hartman's allegations and do not tell the NRC Commissioners.

June 22, 1979 -- Governor Thornburgh writes to NRC, expressing his "deeply felt responsibility for both the physical and psychological security of the citizens of Pennsylvania" and advising the NRC of his "strong opposition to any plans to reactivate [TMI] Unit 1 until a number of very serious issues have been resolved."

July 2, 1979 -- NRC directs that the plant remain shut down until a hearing is held on whether there is reasonable assurance the plant can be operated safely.

August 9, 1979 -- NRC sets up Atomic Safety and Licensing Board (ASLB) to hold hearings to determine whether there is reasonable assurance TMI-1 can be operated without endangering the health and safety of the public. Issues include whether the GPU has the requisite managerial, financial, and technical capabilities. The NRC Commissioners commit themselves to directly review any appeal of the ASLB's restart decision, thus bypassing the normal, time-consuming route whereby appeals first go to an NRC Appeal Board. This means restart could not occur until the Commissioners have reviewed the merits of the intervenors' appeals. (Commissioners later reverse themselves one week before the first ASLB decision is handed down. See, August 20, 1983).

October 25, 1979 -- NRC Notice of Violation for the accident issued, fining Met-Ed the maximum amount permitted under NRC regulations.

October 29, 1979 -- Harold Ornstein, investigator for the NRC's Special Inquiry Group (Rogovin Commission) investigating the TMI-2 accident, questions Harold Hartman under oath, at which time Hartman restates his allegations. Special Inquiry Group refuses to include these allegations in its report.

December 5, 1979 -- Met-Ed responds to NRC Notice of Violation, denying all charges, but pays the fine.

March 6, 1980 -- NRC Commissioners direct that 13 specific "management" issues be examined by ASLB.

March, 1980 -- Hartman appears on New York television and publicizes his allegations of falsification of leak rate data. NRC investigators begin investigation into Hartman allegations.

April, 1980 -- NRC investigators conclude that Hartman's allegations were substantiated, and refer case to Justice Department which then begins a Grand Jury investigation. NRC halts its own investigation. While then head of NRC Office of Investigation and Enforcement, Victor Stello, now claims he told the NRC Commissioners of the Staff's conclusions, there is no direct evidence of this and Commissioner Gilinsky and then Commissioner Bradford both later announce they were not then told of the Staff's conclusions.

September 17, 1980 -- Faegre & Benson, GPU consultants, issue report to GPU substantially confirming Hartman's leak rate falisification allegations. GPU withholds this document from the NRC and the public until May, 1983.

October 15, 1980 -- NRC restart proceedings begin. Major issues concern design/hardware issues, litigated by the Union of Concerned Scientists; emergency planning, litigated by ANGRY, Newberry Township Steering Committee, and Norman and Marjorie Aamodt; financial capability, litigated by Three Mile Island Alert; and management, litigated by Three Mile Island Alert and Marjorie and Norman Aamodt. Issues concerning "psychological stress" are not admitted, and PANE appeals to D.C. Circuit. The Commonwealth of Pennsylvania participates also in the proceedings.

March, 1981 -- NRC Commissioners dismiss financial qualification issue without case ever having been litigated. TMIA appeals decision to D.C. Circuit Court, but court decides appeal is premature. TMIA must wait until restart decision made to challenge the action.

March, 1981 -- NRC Staff tells the ASLB, in NUREG-0680, Supplement 2, that "the Staff has reviewed the information that it had obtained to date on the [Hartman] matter, and has concluded on the basis of information thus far obtained that there appears to be no direct connection with the Unit 2 accident." NRC Staff fails to notify the ASLB that it concluded in 1980 the leak rates were falsified. Nor does the Staff provide the Commissioners with this information. (See, April, 1980)

July 9, 1981 -- Main restart hearings end.

August 20, 1981 -- NRC reverses its longstanding promise to area residents not to allow restart until all internal NRC appeals are complete. (See, August 9, 1979).

August 27, 1981 -- ASLB issues first Partial Initial Decision (PID), dealing with management issues. PID supports lifting license suspension, i.e., restart. ASLB relies in part on information contained in NUREG 0680 regarding Hartman allegations. (See, March, 1981). TMIA and the Aamodts appeal decision.

October 2, 1981 -- ASLB reopens restart hearings to inquire into allegations of cheating on operator license exams; ASLB defines the broad issue as "the effect of the information on cheating in the NRC April examination ... recognizing that, depending on the facts, the possible nexus of the cheating incident in the NRC examination goes beyond the cheating by two particular individuals and may involve the issues of Licensee's management integrity ..."

November 10, 1981 -- Reopened "cheating" hearings begin, presided over by Special Master Gary Milhollin. TMIA and the Aamodts participate as intervenors. The Commonwealth also participates.

November, 1981 -- Justice Department tells NRC that it may resume its investigation into the Hartman allegations. NRC does nothing, and later claims it never got this message from Justice.

November 1981 to January 1982 -- GPU discovers 29,000 defective steam generator tubes at TMI-1 caused by mistaken introduction of sulfur into the reactor coolant system.

December 10, 1981 -- Reopened "cheating" hearings conclude.

December 14, 1981 -- Second PID issued, dealing with design/hardware issues, and emergency planning issues. PID supports restart. UCS and the Aamodts appeal decision.

January 7, 1982 -- D.C. Circuit rules that issues of psychological stress need not be considered in the restart hearing, but must be considered by NRC under National Environmental Policy Act. Court orders injunction on restart and orders an environmental study on psycholgical stress be conducted. NRC appeals to U.S. Supreme Court.

February 1, 1982 -- Harold Denton, director of Nuclear Reactor Regulation, calls TMI-1 steam generator damage the worst case in the entire country.

April 28, 1982 -- Special Master Milhollin's report issued, concluding that a number of TMI management personnel engaged in cheating and wrongdoing; the overall integrity of the operations staff is inadequate; the company's response to certain cheating incidents was inadequate; the company submitted a "material false statement" to the NRC in connection with the license certification of the then-TMI-2 Supervisor of Operations who had cheated on this license requalification exam in 1979; many company witnesses gave noncredible testimomy under oath; and the company's training and testing program was "poorly administered, weak in content, ineffective in its method of instruction, and not an adequate response to the Commission's Order of August 9, 1979."

May 18, 1983 -- Voters in Pennsylvania counties of Dauphin, Cumberland, and Lebanon express 2 to 1 opposition to TMI-1 restart, in a non-binding referendum.

July 27, 1982 -- Third PID, reviewing Milhollin's report, issued. Many of Milhollin's findings are reversed. PID supports restart. TMIA, the Aamodts, and the Commonwealth appeal decision.

November 1, 1982 -- Trial begins in lawsuit filed by GPU against Babcock & Wilcox (B&W) for causing the TMI-2 accident

November 9, 1982 -- NRC Commissioners hold public meeting before 1,200 Harrisburg area residents, having announced that a restart decision would be made by December 10, 1982, i.e., the Commission would decide whether the PIDs, all of which support restart, would be made "immediately effective" even though the parties were appealing the PIDs.

December 10, 1982 -- Day passes with no decision from NRC Commissioners.

December 29, 1982 -- NRC Commission asks NRC Staff to review the record of continuing B&W-GPU lawsuit. Victor Stello, former head of NRC's Office of Inspection and Enforcement, is assigned the task. Stello's credibility had previously been challenged by at least one Congressional committee on the basis that his TMI accident investigation reports contained unsupported conclusions favorable to GPU, in conflict with known evidence.

January 24, 1983 -- Out-of-court settlement agreed to by GPU and B&W. Trial ends.

February, 1983 -- Marjority of Commissioners vote down Commissioner Gilinsky's request that the NRC's Office of General Counsel review the GPU-B&W trial record.

March 22, 1983 -- TMI-2 Senior Start-up Engineer Richard Parks publicly charges GPU and Bechtel Corporation, joint-managers of the TMI-2 cleanup, with deliberately circumventing safety procedures, and harassing him and others for reporting safety violations. Parks files U.S. Department of Labor complaint.

March 27, 1983 -- Larry King, former site operations manager at TMI-2 and Park's former boss, publicly supports Park's charges, claiming he was improperly dismissed for insisting that safety procedures be followed.

March 28, 1983 -- Victor Stello's report reviewing the GPU-B&W trial record is issued. Report concludes "the trial court record does not contain significant information that would affect the Commission's decision regarding restart."

April 2, 1983 -- TMI-2 plant engineering director Edwin Gishcel signs affidavit charging GPU and Bechtel with harrassment, intimidation, and circumventing cleanup safety procedures.

April 6, 1983 -- Stello presents GPU-B&W trial record report to NRC Commissioners, four of whom publicly criticize report, noting it had few actual references to the trial and reached conclusions based more on previous accident investigations than on actual trial testimony. (The NRC Commissioners later ask the Staff to expand its review, and the Office of Nuclear Reactor Regulation takes over review, appointing a 25-member task force to complete review. See, September, 1983).

April 18, 1983 -- NRC staff begins backing away from its endorsement of GPU management, indicating its previously held support for GPU's management was in need of "revalidation."

April 19, 1983 -- U.S. Supreme Court reverses D.C. Circuit opinion on psychological stress, ruling that an environmental assessment need not be done.

April 26, 1983 -- NRC staff explains that the basis for the need to "revalidate" GPU management was the "open issue of the Hartman allegations concerning the falisification of leak rate data," which could "possibly affect the staff's position on management integrity." Staff outlines the inspection and review effort initiated by the NRC's Office of Reactor Regulation and the Region I office.

May 5, 1983 -- GPU reveals for the first time to NRC the BETA and RHR management audits which had been completed in February and March, 1983, and are critical of plant operations and management.

May 17, 1983 -- Richard Parks wins his Department of Labor complaint and is ordered reinstated. Bechtel appeals, and Parks later accepts position with Bechtel in California.

May 18, 1983 -- Region I's completed inspection report on the Hartman allegations is issued internally to NRC. Twelve citizens from Harrisburg area block entrance to TMI and are arrested.

May 19, 1983 -- William J. Dircks, NRC Executive Director for Operations, issues memorandum annoucing a withdrawal of the Staff's previous support for GPU management, based on the following five "open" issues: 1. the veracity of the Hartman allegations; 2. statements in the B&W trial record; 3. the Parks/King allegations; 4. the substance of the BETA and RHR reports; 5. whether GPU failed to promptly notify the NRC of the BETA and RHR reports.

May 24, 1983 -- Tim Martin, who headed NRC's 1980 investigation into the Hartman allegations, tells Commissioners at a public meeting that he knew in 1980 that the leak rates were falsified, i.e. that Hartman's allegations were substantiated.

May 31, 1983 -- NRC proposes that TMI-1 steam generator repairs present "no significant safety hazard consideration" and therefore, no prior hearing is needed before issuance of a license amendment permitting operation with the "as-repaired" steam generators. NRC asks for public comment.

June 2, 1983 -- Governor Thornburgh urges the Commissioners not to make a restart decision until the state's appeal and all safety issues, especially management integrity, are resolved.

June 7, 1983 -- Dircks writes memo to Commissioners suggesting separation of the "management integrity" issues from Commissioners's consideration of restart, provided that "certain individuals" are temporarily removed.

June 9, 1983 -- Chairman Richard Ottinger of the House Subcommittee on Energy Conservation and Power, Energy and Commerce Committee, tells Commissioners at a public hearing that a "no significant safety hazard consideration" finding by NRC on TMI-1 steam generator tube repairs violates the law.

June 10, 1983 -- In a letter to Thornburgh and the NRC Commissioners, GPU proposes some reorganization of its personnel, and promises not to let those who have cheated on exams operate TMI-1. Governor states that GPU's offer is a "good start" toward satisfying his concerns about the safe operation of the plant. Thornburgh drops Commonwealth's appeal on "cheating" issues. Many fear this points the way to a restart decision before Commissioner Ahearne leaves the end of June.

June 15, 1983 -- NRC Chairman Palladino tells the press a restart decision before the end of June, is "doubtful."

June 22, 1983 -- Commissioner Gilinsky issues a draft "restart decision," in which he finds GPU lacks competence and integrity to operate TMI-1. He insists that at least GPU Nuclear President Arnold, GPU President Deickamp, and GPU Chairman of the Board Kuhns be removed.

June 28, 1983 -- Commissioners issue memo, stating they are "unable to decide the management issues at this time," and that a decision will "await the completion" of ongoing NRC investigations into management integrity issues. The Commission rejects a Staff proposal to separate individuals from the organizational structure for purposes of deciding the management issues.

July 14, 1983 -- In a letter to Chairman Morris K. Udall, House Committee on Interior and Insular Affairs, NRC Chairman Palladino states, "[t]he Commission does not intend to make a decision on TMI-1 management competency until the relevant portions of [the NRC's Office of Investigation's investigation into the allegations of leak rate falisification] are complete."

July 15, 1983 -- In memo to the Commissioners, Dircks states that "in light of the controversial nature of the subject of management integrity and the lack of any precise standards for judging the integrity of individuals and corporate institutions ... an evidentiary hearing on management competence and integrity [is] ... inevitable." Dirks refers to all five "open" issues which caused the Staff on May 19 to withdraw its support of management.

July 22, 1983 -- GPU is fined $140,000 for submitting a material false statement to the NRC in connection with the license certification of the then TMI-2 Supervisor of Operations who had cheated on his license requalification exam in 1979.

August 31, 1983 -- NRC's Atomic Safety and Licensing Board Appeal Board reopens restart record to examine the Hartman allegations. ASLAB states that reopening consideration of the other four management integrity issues referred to in the May 19 memo is premature, but would be considered at a later time.

September, 1983 -- Staff issues NUREG-1020, its expanded review of the GPU-B&W record. Seven management integrity issues raised in the record, are considered to impact on restart, and are referred to the NRC's Office of Investgation.

September 22, 1983 -- Dauphin County Commissioners pass a resolution to establish radioactive air emission standards from TMI, and set up a task force to write the actual ordinance, marking the first time a county takes legally binding action to control the hazards caused by operation of a nuclear power plant.

October 7, 1983 -- NRC Commissioners issue Order predicting that if all management intergrity issues must be resolved before restart, a vote would not be possible until mid-1984 at the earliest, and maybe not until mid-1985. Commission announces it will consider "alternative approaches" and puts a temporary halt to the reopened "Hartman" proceedings.

October 17, 1983 -- Prehearing conference on steam generator tube repairs. TMIA and the Aamodts participate as intervenors. Commission has not yet made its final "no significant hazard" determination i.e. a determination as to whether license amendment will become effective before hearing has been completed. Contentions are accepted and discovery soon begins, scheduled for completion January 31, 1984.

November 7, 1983 -- Department of Justice indicts Met-Ed for falisifying leak rate data and destroying documents before the accident, in violation of their license, NRC regulations, and the federal criminal code.

November 8, 1983 -- Commissioners meet in closed session and decide to hear orally from GPU on its June 10 reorganization proposal, previously rejected for consideration by the Commissions. A November 28 date is set for GPU presentation. Opportunity for oral comment from the intervenors specifically disallowed, but Commissioners later decide to hear from the intervenors on this proposal at a December 5 Commission meeting.

November 28, 1983 -- GPU announces the resignation of GPU Nuclear President Robert C. Arnold, implicated in a number of management integrity issues.

December 5, 1983 -- NRC Staff recommends TMI-1 restart at 25% power, despite the Staff's inability to vouch for the integrity of GPU management. Pennsylvania public officials, including Governor Thornburgh, Senators Specter and Heinz, area Congressmen, state, and local officials, strongly critisize the restart proposal on the basis that the integrity issues are still unresolved.

December 7, 1983 -- NRC Commissioners are advised at a public meeting by the NRC's Office of General Counsel that the TMI-1 steam generator repairs present a "significant hazard consideration," and a Commission vote which finds "no significant hazard consideration" would violate the Atomic Energy Act.

December 16, 1983 -- Senator Specter holds hearings in Harrisburg on the NRC's handling of the TMI restart case.

January 10, 1984 -- NRC Commissioners split 2 to 2 on whether the steam generator tube repairs present a "significant hazard consideration." Commissioner Bernthal refuses to vote, claiming such a decision is unnecessary until the Commission decides how to handle other restart issues.

January 11, 1984 -- TMIA, the Aamodts, GPU, and the NRC Staff present arguments to the Atomic Safety and Licensing Appeal Board on management competence and integrity issues. TMIA argues that a decision on these issues is not possible until all new, unresolved integrity issues are resolved fully in hearings.

January 20, 1984 -- At the insistance of Commissioner Asselstine, NRC releases a list of 63 potentially open integrity issues for public comment, due February 9.

January 25, 1984 -- Commissioners decide in a closed meeting, by a vote of 3 to 2, to hold a public meeting on January 27 to vote on a tentative decision to separate the integrity issues from an overall restart decision, making possible a final restart decision in June, before the integrity issues are resolved. No public announcement of the January 27 meeting is made, and word does not get out until the next day.

January 27, 1984 -- Commissioners vote 3 to 2 to separate the integrity issues from an overall restart decision, and to make a final restart decision in June before the integrity issues are resolved. Commissioners Gilinsky and Asselstine strongly dissent. Two area Congressmen, a Dauphin County Commissioner, the parties to the restart proceeding, and members of the public, are all denied any opportunity to comment at the Commission meeting. Many public officials, including Governor Thornburgh, Senators Specter and Heinz, area Congressmen, state, and local officials, as well as members of the public, express outrage at the Commission's decision.

TMIA: THREE MILE ISLAND ALERT, INC.
315 Peffer St., Harrisburg, Penna. 17102 (717) 233-7897

February 24, 1984

Senator Arlen Specter
U.S. Senate
Washington, D.C. 20510

Dear Senator Specter:

As an attorney who has been closely involved in the TMI-1 restart case for several years, I would like to express my sincere appreciation for the time and effort you have recently expended on the restart issue. The residents of Central Pennsylvania greatly appreciate the concern you have shown in attempting to hold the NRC accountable for the manner with which they are handling this case, and to restore some integrity to the restart process.

During your questioning of the Commissioners at last Thursday's hearing before the Nuclear Regulation subcommittee, which I attended along with a number of others from the Harrisburg area, you raised several very important questions concerning whether Messrs. Dieckamp and Kuhns had ever been questioned by the NRC regarding their possible involvement in wrongdoing. As representive of an intervening party in the restart case, and one who is intimately familiar with the restart record, I thought it might be useful to provide you with some insights from that record which address this and other concerns.

The NRC's Atomic Safety and Licensing Board held "restart" hearings from October, 1980 through July, 1981, and reopened "cheating hearings" from November through December, 1981. All restart issues were to be resolved in those hearings.

Mr. Kuhns never appeared at those hearings. Mr. Dieckamp, however, did appear on February 20, 1981. Several weeks before his apprearance, an issue arose concerning the submission of a possible material false statement by Mr. Dieckamp to Congressman Morris K. Udall and to the Commission shortly after the accident. With regard to the NRC's handling of that issue, the Board noted at Tr. 13,060, "I&E people really leave it dangling," and "as far as the Board is concerned, and as far as I would imagine the intervening parties and the public, it seems to me that there should be a further inquiry or further explanation." Not only was no further explanation made, the Board never even questioned Mr. Dieckamp on the incident when he appreared as a witness later that month. See, Tr. 13,438, et seq. The Board then "resolved" the issue by stating,

> We have considered reopening the record to hear from Mr. Dieckamp on the matter, in particular on his present view, but to do so would involve a substantial delay in our decision, and would be a serious distraction from many issues directly involving the public health and safety.

PID ¶503.

The Licensing Board's handling of this issue is illustrative of the agency's handling of most every "integrity" issue which has arisen in this case, including the Commission's failure to question Messrs. Kuhns and Dieckamp on the leak rate falsification issue. It strains credulity to atttibute such a pattern to the incompetence or stupidity of agency investigators or decision makers. Rather, the cause apprears more clearly attributable to an agency attitude, resulting in deliberate decisions to avoid confronting and resolving even the most serious integrity issues, particularly those involving senior management.

Based on our experience with the restart case, it seems that the solution to this problem is not to require quicker investigations. As the previous example may hope to illustrate, such a solution would probably only exacerbate the real problem, i.e. the agency's penchant for avoiding serious issues. We encourage you to examine the restart record which is replete with other examples.

Further, the record will show that the real reason this case has taken so long to resolve is due more to the sheer incompetence of GPU than any agency delay. I have enclosed a restart case chronology, which may assist in better understanding this fact. Note, for example, that in 1981, GPU accidently contaminanted the reactor coolant system, seriously damaging both TMI-1 steam generators, which then required extensive repairs. The safety of those repairs has not yet been demonstrated by GPU.

I have also enclosed a document which addresses the claim made by GPU and a majority of the NRC Commissioners that the current licensee is a differenct organization than the one in charge before and during the accident and currently under indictment, or the subject of "unresolved" integrity issues. I would be glad to discuss these issues or other aspects of the restart record with you or your staff at any time. Please do not hesitate to contact me with any questions or comments.

Very sincerely,

Joanne Doroshow

Enclosures

cc:
Senator Simpson with Encls.
Senator Mitchell with Encls.

TMIA: THREE MILE ISLAND ALERT, INC.
315 Peffer St., Harrisburg, Penna. 17102 (717) 233-7897

February 24, 1984

Senator Frank R. Lautenberg
U.S. Senate
Washington, D.C. 20510

Dear Senator Lautenberg:

As an attorney who has been closely involved in the TMI-1 restart case for several years, I would like to express my sincere appreciation for the recent concern you have expressed regarding the restart issue. I am aware of the December 20, 1983 letter sent on behalf of members of the New Jersey Congressional delegation to NRC Chairman Palladino, and of the concern New Jersey ratepayers have regarding the costs of TMI Unit 1 shutdown.

While I respect this position, those of us who have been working on this issue firmly believe that if restart is permitted by June as the Commission is now contemplating, the safety risks would be enormous, and and implications in terms of the integrity of the NRC's process would be extremely destructive to the agency. We urge you to continue joining efforts with those political officials in Pennsylvania in attempting to hold the NRC accountable for the manner with which they are handling this case, and to restore some integrity to the restart process.

During your questioning of the Commissioners at last Thursday's hearing before the Nuclear Regulation subcommittee, which I attended along with a number of others from the Harrisburg area, you raised several very important questions concerning the restart issue. As a represention of an intervening party in the restart case, and one who is intimately familiar with the restart record, I thought it might be useful to provide you with some insights from that record which address these concerns.

I have thus enclosed two documents. The first enclosure addresses the claim made by GPU and a majority of the NRC Commissioners that the current licensee is a different organization than the one in charge before and during the accident and currently under indictment, or the subject of "unresolved" integrity issues. The second attachment is a restart case chronology, which may assist in better understanding the steps which have led to the current restart situation. Upon reading this chronology, you will see that the primary cause for delay has not been bureaucratic obstacles, but the sheer incompetence of the utility under scrutiny. Note, for example, that in 1981, GPU accidently contaminanted the reactor coolant system, seriously damaging both TMI-1 steam generators, which then required extensive repairs. The safety of those repairs has not yet been demonstrated by GPU.

I would be glad to discuss these issues or other aspects of the restart record with you or your staff at any time. I urge you to discuss the matter with others in the New Jersey and Pennsylvania delegation. Please do not hesitate to contact me with any questions or comments.

Very sincerely,

Joanne Doroshow

Joanne Doroshow

Enclosures

cc:
Senator Simpson with Encls.
Senator Mitchell with Encls.

POST-HEARING QUESTIONS WITH RESPONSES

QUESTION 1. Please provide a detailed section-by-section status report on all actions taken by the NRC to implement Public Law 97-415, "Nuclear Regulatory Commission Authorization for Fiscal Years 1982 and 1983".

ANSWER.

The following table details the status of all actions taken by the NRC to implement Public Law 97-415, "Nuclear Regulatory Commission Authorization for Fiscal Years 1982 and 1983":

P.L. 97-415 Reference	Action Taken
Section 1 Reprogramming	On February 3, 1983 a reprogramming request was submitted to Congress and was subsequently approved.
Section 2, Authority to retain certain amounts received.	The cooperative Nuclear Research Program has been in place since 1976. The material access authorization program was established by this Act. The procedures for use of a deposit fund account with Treasury were accomplished in February 1983.

P.L. 97-415 Reference	Action Taken
Section 3, Authority to transfer certain amounts to other agencies.	There was no requirement to exercise this authority.
Section 4, Limitation on Spending Authority.	No action necessary since appropriation act received before Authorization Act.
Section 5, Authority to Issue Licenses in Absence of Emergency Preparedness Plans.	The Commission did not find it necessary to exercise this authority during FY 1983. On September 30, 1983, this authority [to issue operating licenses in absence of Emergency Preparedness Plans] expired.
Section 6, Expedite Development of Nuclear Safety Goals.	The NRC staff is following the 2-year safety goal evaluation plan as detailed in the Federal Register on March 14, 1983.

P.L. 97-415 Reference	Action Taken
Section 7, Loss-of-Fluid Test Facility.	On November 22, 1982, NRC's Authorization and Appropriation Subcommittee Chairmen were notified on the status and future operation of the Loss-of-Fluid Test facility.
Section 8, Funds authorized for Nuclear Data Link prototype.	During FY 1983, Congress disallowed all funding for the Nuclear Data Link.
Section 9, Funds authorized for Interim Consolidation of Offices.	NRC Headquarters still widely scattered in eleven locations in Washington, Rockville, Silver Spring and Bethesda. Chairman Palladino's prepared testimony (pages 17 through 19) for the February 23, 1984 hearing provided in detail the current status of interim consolidation.

P.L. 97-415 Reference	Action Taken
Section 10, Three Mile Island Include in Annual Report a separate chapter on TMI Cleanup activities.	NRC's 1982 Annual Report issued in June 1983 devoted Chapter 3 to TMI cleanup as will the 1983 Annual Report to be issued in May 1984.
Section 11, Temporary Operating Licenses - directs Commission to adopt administrative remedies to minimize the need to issue temporary operating licenses.	The rule implementing this legislation was published in the Federal Register on April 6, 1983 (48 FR 14926) and became final on October 13, 1983. On December 31, 1983, the authority to grant a temporary operating license expired.
Section 12, Operating License Amendment Hearings - The Commission shall promulgate regulations in determining when an amendment involves no significant hazard considerations, etc.	The Commission has issued two interim final regulations, published in the Federal Register on April 6, 1983 (48 FR 14864 and 48 FR 14873). The NRC is working on final regulations.

P.L. 97-415 Reference	Action Taken
Section 13, Quality Assurance - Commission shall conduct a quality assurance study and submit results to Congress within 15 months.	The results of the study and the report to Congress are currently before the Commission for consideration.
Section 14, amends Atomic Energy Act limiting use of special nuclear material.	No NRC action required.
Section 15, Resident Inspectors - Conduct a study of financial hardships incurred by resident inspectors and report results to Congress.	Report submitted to Congress on April 29, 1983.
Section 16 through 23 amended various sections of the Atomic Energy Act of 1954 or the Uranium Mill Tailings Radiation Control Act of 1978.	Secs. 16, 17, 21, 23: require no special NRC action. Sec. 18: proposed conforming rulemaking pending before the Commission (10 CFR Part 40 suspended in September 1983; suspension lifted

P.L. 97-415 REFERENCE	ACTION TAKEN
	BY OPERATION OF LAW APRIL 1984).
	SEC. 19, 20: NO ALTERNATIVES PROPOSED, THEREFORE, NO NRC ACTION TAKEN.
	SEC. 21: REQUIRES NO SPECIAL NRC ACTION BEYOND DUE CONSIDERATION OF ECONOMIC COST IN LICENSING AND REGULATION OF MILL TAILINGS ON A REGULAR BASIS.

QUESTION 2(A). WHAT ADMINISTRATIVE STEPS HAVE BEEN TAKEN BY THE COMMISSION SINCE MARCH 10, 1983 WITH REGARD TO THE LICENSING PROCESS?

ANSWER.

THE COMMISSION IS SEEKING PUBLIC COMMENT ON A NUMBER OF PROPOSALS FOR REFORMING THE LICENSING PROCESS THROUGH AMENDMENTS TO ITS RULES OF PRACTICE. SOME OF THE PROPOSALS WOULD: (1) ESTABLISH A SCREENING BOARD TO RULE ON HEARING REQUESTS, INTERVENTION PETITIONS, AND PROPOSED CONTENTIONS; (2) ELIMINATE DISCRETIONARY INTERVENTION; (3) RAISE THE THRESHOLD FOR ADMISSIBILITY OF CONTENTIONS; (4) LIMIT PERMISSIBLE DISCOVERY AGAINST THE NRC STAFF; (5) REQUIRE THE DEMONSTRATION OF A SPECIAL NEED FOR ORAL TESTIMONY AND CROSS-EXAMINATION; (6) PERMIT THE LICENSING BOARD TO APPOINT A PANEL OF TECHNICAL EXPERTS; (7) RESTRICT THE AUTHORITY OF THE LICENSING BOARD TO RAISE ISSUES ON ITS OWN MOTION; (8) PERMIT THE FILING OF MOTIONS FOR SUMMARY DISPOSITION AT ANY STAGE OF THE PROCEEDING; (9) ALLOW THE USE OF HEARING EXAMINER IN PLACE OF A THREE MEMBER LICENSING BOARD; (10) ELIMINATE THE APPEAL PANEL AS AN INDEPENDENT, INTERMEDIATE ADMINISTRATIVE TRIBUNAL; AND (11) RESTORE THE COMMISSION'S IMMEDIATE EFFECTIVENESS RULE FOR ALL INITIAL DECISIONS. THE COMMISSION HAS ALSO ISSUED A STATEMENT OF POLICY ON BACKFITTING WHICH DIRECTS THE STAFF TO IMPLEMENT CERTAIN INTERIM MEASURES FOR THE IMPOSITION OF NEW REGULATORY REQUIREMENTS FOR POWER REACTORS BASED ON THE CONCLUSION THAT CURRENT AND PAST STAFF PRACTICES DO NOT ADEQUATELY IDENTIFY AND JUSTIFY PROPOSED NEW REQUIREMENTS.

Commissioner Roberts adds:

Commissioner Roberts is not satisfied with the progress made thus far regarding the adoption of administrative reforms for the licensing process. He believes the Commission should have moved more expeditiously in taking steps to more efficiently and effectively discharge the NRC's mandate to protect the public health and safety by instituting sound and practical regulations.

Commissioner Asselstine adds:

See the attached document for Commissioner Asselstine's separate views.

SEPARATE VIEWS OF COMMISSIONER ASSELSTINE

I disagree with the majority's decision to issue for public comment these proposals for procedural changes in the nuclear power plant licensing process. These proposals, which were presented to the Commission in a November, 1982 draft report from the Chairman's Regulatory Reform Task Force (RRTF), reflect the most extreme view of licensing "reform" and, if adopted, would as a practical matter effectively eliminate public participation in the hearing process. Moverover, the process by which these proposals were developed does not support the majority's decision to proceed to issue them for comment in their present form.

As the Commission's notice makes clear, these proposals, and the accompanying explanatory discussion in the November, 1982 draft report, do not represent the views and recommendations of the Regulatory Reform Task Force. Rather, these proposals constitute nothing more than a collection of possible changes to our hearing procedures for discussion purposes. In such circumstances, the Commission should first decide which changes to its licensing procedures it believes are appropriate and beneficial, and then seek public comment on those changes. Further, any public notice of possible changes to our hearing procedures should present a full, fair and even-handed discussion of the potential advantages and disadvantages of each proposed change. The document being issued for comment by the majority today fails to meet this test. Such proposals, and the process by which they were developed, do not provide a basis for Commission development of a set of reasonable and constructive changes to the hearing process -- changes that I believe are needed to improve the efficiency and effectiveness of the process and to enhance the opportunities for participation by all involved parties, including public intervenors, the utility applicants and the NRC staff.

The following proposals being issued by the majority for comment are of particular concern: the proposal to establish a higher evidentiary threshold for the admission of contentions; the proposal to require that contentions be filed at the time the request for hearing or petition for leave to intervene is filed; the proposal to limit the opportunity to amend or file contentions after the relevant staff review documents become available; the proposal to establish a single Screening Board with exclusive authority to rule on the admissibility of contentions and Licensing Board requests to pursue issues sua sponte; the proposal to restrict opportunities for cross-examination; the proposal to eliminate the Commission's immediate effectiveness reviews of initial licensing decisions; the proposal to eliminate the Atomic Safety and Licensing Appeal Boards; and, the proposal to require the codification of all generic factual issues that are considered in individual licensing decisions.

Each of these proposals suffers from significant legal, policy or administrative disadvantages that are not readily apparent from the discussion in the document being issued by the majority. For example, the proposals for the filing of detailed support for contentions prior to any opportunity for discovery, together with the added restrictions on late-filed contentions, would impose an unfair and probably illegal burden on public intervenors. The proposal for a Screening Board would detract from the orderly continuing management of the hearing process by the Licensing Board and would remove the responsibility to rule on contentions from those best able to carry out that responsibility. The proposal to restrict opportunities for cross-examination would impose an unfair burden on public participants and would represent an improper attempt to eliminate present legal requirements for trial-type adjudicatory hearings. The proposal to eliminate Commission immediate effectiveness reviews would eliminate the only requirement for direct Commission review prior to the commencement of operation of a new plant. The proposal to eliminate the Appeal Boards would deprive the Commission of the benefits of the thorough, expert and independent reviews of Licensing Board initial decisions now provided by the Appeal Boards. The proposal to require the codification of all generic factual issues considered in an individual licensing proceeding would commit the Commission to codification even where there are no benefits to be gained by such action.

These proposals were strongly criticized by individual members of the Regulatory Reform Task Force and by members of the Senior Advisory Group, a group of senior NRC officials with extensive knowledge of, and experience with, the hearing process. In addition, the Ad Hoc Committee for Review of Nuclear Reactor Licensing Reform Proposals, a group of knowledgeable experts from outside the agency with diverse perspectives on regulatory reform issues, recommended against adoption of all but one of these proposals. Moreover, the Commission's two legal offices, either in comments on the proposals, or in previous regulatory reform evaluations, have questioned the Commission's legal authority to adopt several of these proposals.

Notwithstanding the serious legal and public policy concerns that have been raised repeatedly by members of the Task Force, the Senior Advisory Group, the Ad Hoc Committee, the Commission's legal offices and others, the draft report being issued by the Commission today paints these proposals only in the most favorable light. The discussion of the majority of the proposals is biased in favor of the proposal and fails even to mention, much less address, the countervailing legal and public policy considerations.

Despite repeated suggestions from knowledgeable individuals from within and outside the agency, the Commission has made little progress over the past two years in developing reasonable improvements in our hearing procedures. That lack of progress is directly attributable to the dogged pursuit of more radical and extreme proposals for restructuring the hearing process. Rather than continuing on this course, the Commission should: (1) reject decisively the extreme and unwarranted proposals in this notice; (2) restructure the Task Force to assure that it will function as a source of objective advice to the Commission on the subject of regulatory reform; and (3) proceed immediately to develop appropriate rule changes and policy guidance that would result in improvements in the efficiency and effectiveness of the hearing process and in the opportunities for participation by all involved parties.

In the hope of encouraging a more sensible and constructive direction in our regulatory reform effort, I am including in these views my own suggestions for improving the hearing process. These suggestions are drawn largely from the comments and recommendations of individual members of the Regulatory Reform Task Force, the Senior Advisory Group, the Ad Hoc Committee for Review of Nuclear Reactor Licensing Reform Proposals, and from previous NRC licensing reform efforts. I would appreciate comments on whether these suggestions provide a reasonable basis for Commission development of a set of useful and appropriate changes to our hearing procedures.

In brief, I would revise the present hearing procedures to provide for the following:

- A notice of the submission of each reactor license application. Following this notice, interested persons could notify the Commission of their interest. Such persons would then be notified of meetings between the NRC staff and the applicant, and the staff would hold periodic meetings with such interested persons to hear and respond to their concerns regarding the application.

A local public document room would also be established following the notice.

- A notice of opportunity for hearing would be issued following the staff's docketing review, as under present practice. The notice would require interested persons to file intervention petitions within one month. However, the only question to be considered by the Licensing Board in deciding on the petition is whether the person has standing to intervene. No contentions need be filed at this stage.

- Intervenors admitted as parties to the proceeding would be given three months after they are admitted to review available documents and to prepare contentions. Contentions filed at the end of the three-month period would be reviewed by the Licensing Board and admitted provisionally: (1) if the contention meets present Commission requirements for admissibility; (2) if it is accompanied by a statement of all significant facts known to the intervenor at that time supporting each contention, together with references to the specific sources and documents which have been or will be relied on to establish such facts; and, (3) unless the Board determines that it appears beyond doubt that the intervenor can prove no set of facts in support of its claim which would entitle it to relief. The third part of this test is modeled after the test established by the Supreme Court in Conley v. Gibson, 355 U.S. 41 (1957) for federal courts in determining whether a motion to dismiss a complaint should be granted pursuant to Rule 12 (b)(6) of the Federal Rules of Civil Procedure. In applying this part of the test, the Licensing Board would consider whether, reviewing the contention in the light most favorable to its proponent and with every doubt resolved in the proponent's behalf, the contenntion states any valid claim for relief. Legal issues would be admitted and considered based upon oral argument rather than upon an adjudicatory hearing.

- A period of 4-6 months would be provided for discovery on all provisionally admitted contentions. Extensions could be granted only for good cause. The Licensing Boards would be directed by the Commission as a matter of policy to supervise closely the discovery process and to use such measures as bi-weekly telephone conference calls to manage the discovery process.

- At the close of the discovery period, the Licensing Board would rule on whether to proceed with a hearing on factual contentions. At this stage, the Board would only proceed to conduct an adjudicatory hearing on those contentions for which an intervenor has established that a genuine issue of material fact exists. In making this determination, the Board would apply the test set forth by the Court in Independent Bankers Ass'n. v. Board of Governors, 516 F.2d 1206, 1220 n. 57 (D.C. Cir. 1975). Under this test, an intervenor need not make detailed factual allegations in order to meet the requirement that he or she raise "issues of material fact." Rather, the intervenor need only show that an "inquiry in depth" is appropriate.

- Late-filed contentions would be admitted as under the Commission's present rules. If the contention could not have been filed earlier due to the institutional unavailability (i.e., the unavailability of staff documents or emergency plans) of the information on which the contention is based, the intervenor will be presumed to have met the good cause factor in §2.714. As a policy matter, the staff would be directed to pursue the goal of early availablity of all staff documents, preferably within six months of the issuance of the notice of opportunity for hearing.

- The Licensing Boards would be granted the authority to call experts as board witnesses. As a matter of policy, the Commission would provide that parties to a proceeding could file requests with the Board to call expert witnesses on issues to be litigated in the proceeding.

- As a matter of policy, the Licensing Boards would be directed to require the preparation and use of cross-examination plans for extended cross-examination of witnesses in the hearing.

- As a matter of Commission policy, the Licensing Boards and parties to a licensing proceeding, including the NRC Staff, would be invited to recommend to the Commission generic issues considered in individual licensing proceedings which could be usefully codified.

- Hybrid hearing procedures similar to those specified in section 134 of the Nuclear Waste Policy Act of 1982 would be used on an experimental basis in a few selected cases. All parties to the proceeding would have to agree to the use of hybrid hearing procedures.

The majority of my suggestions could be adopted through the issuance of a revised Commission policy statement on the conduct of nuclear power plant licensing hearings and through some limited revisions to 10 CFR Parts 2 and 50. If adopted, I believe that changes to our hearing procedures along the lines suggested would help assure a more efficient and effective hearing process as well as one that is fair to all participants. I invite comments on this approach and would welcome the opportunity to discuss my suggestions with interested persons.

QUESTION 2(B). PLEASE PROVIDE A COMPLETE SUMMARY OF ALL POLICY STATEMENTS AND REGULATIONS (PROPOSED AND FINAL) ISSUED BY THE COMMISSION SINCE MARCH 10, 1983.

ANSWER.

THE REQUESTED POLICY STATEMENTS AND REGULATIONS ARE ATTACHED.

ATTACHMENT TO QUESTION 2(b)

Regulations and Amendments Proposed

Group Licensing for Certain Medical Uses - Part 35

On March 30, 1983 (48 FR 13189), NRC published a proposed amendment to its regulations to add a device used for instantaneous imaging to its list of devices that may be used by licensed physicians. The proposed amendment would allow physicians, who are adequately trained and licensed to use similar devices, the use of this added medical device without amending their licenses.

Temporary Operating Licenses - Parts 2 and 50

On October 13, 1983 (48 FR 46489), the NRC promulgated amendments to Parts 2 and 50 which established a detailed procedural framework for considering and issuing temporary operating licenses. The authority to issue temporary operating licenses using the simplified procedures expired on December 31, 1983.

Criteria and Procedures for Determining the Adequacy of Available Spent Nuclear Fuel Storage Capacity - Part 53

On April 29, 1983 (48 FR 19382), NRC published proposed amendments to its regulations to meet NRC responsibilities under the Nuclear Waste Policy Act of 1982. The new rule would establish procedures and criteria for determining whether a person owning and operating a civilian nuclear power reactor cannot reasonably provide adequate spent nuclear fuel storage capacity.

Regulations and Amendments Proposed

Reports of Theft or Loss of Licensee Material - Part 20

On May 9, 1983 (48 FR 20721), NRC published a notice of proposed rulemaking that would amend its regulations concerned with reports of theft or loss of licensed material. The proposed amendment would modify that part of the regulation which permits licensee judgement in the reporting of loss or theft of licensed material, with a requirement that the licensee report all licensed material (in a quantity greater than the minimum specified in the amended requlation) lost, stolen, or missing for more than 30 days after its absence becomes known to the licensee.

Requirements for Licensee Actions Regarding the Disposition of Spent Fuel Upon Expiration of the Reactors' Operating Licenses - Parts 50 and 51

On May 20, 1983 (48 FR 22730), NRC published a notice of proposed rulemaking to ensure the continued safe management of spent fuel beyond the expiration date of reactor operating licenses.

Uranium Mill Tailings Regulations; Proposed Suspension of Selected Provisions -Part 40

On May 26, 1983 (48 FR 23649), NRC published a proposal to suspend selected portions of its regulations dealing with the disposal of uranium mill tailings. The action places in abeyance regulations the Commission anticipates to conform to Environmental Protection Agency standards recently proposed.

Regulations and Amendments Proposed

Deletion of Exception Filing Requirement for Appeal From Initial Decision; Consolidation of Responsive Briefs - Part 2

On June 29, 1983 (48 FR 29876), NRC published a proposed amendment to its regulations which would change the procedure for an appeal to the Commission from an initial adjudicatory decision. The proposal would eliminate the filing of exceptions to the decision and would require instead the filing of a notice of appeal. In addition, parties would be required to file a single responsive brief, regard-less of the number of appellant briefs filed.

Protection of Employees Who Provide Information - Part 50

On July 6, 1983 (48 FR 31050), NRC published a notice of proposed rulemaking to amend 10 CFR Part 50. The proposed amendments would require production and utilization facility (principally nuclear power reactor) licensees, permittees, and applicants to include in their procurement documents a provision to require their contractors and subcontractors to post a notice to employees related to employee protection. The required notice would contain information notifying employees that an employer is prohibited from discriminating against an employee engaging in protected activities and that an employee may seek a remedy for prohibited discrimination by filing a complaint with the Department of Labor. The proposed rule would affect licensees, permittees, applicants, and their contractors/subcontractors who are contractually responsible for construction of basic components or production and utilization facilities.

Regulations and Amendments Proposed

Implementation of the Convention on the Physical Protection of Nuclear Material - Parts 40, 70, and 73

On July 14, 1983 (48 FR 32182), NRC published a notice of proposed rulemaking that would implement the provisions of the Convention on the Physical Protection of Nuclear Material. The proposed amendments would require: The physical protection of transient shipments of special nuclear material of moderate and low strategic significance, irradiated reactor fuel, and natural uranium; Advance notification to the NRC of the export of Convention defined nuclear materials; Advance notification and assurance of protection to the NRC concerning transient shipments of Convention defined nuclear materials between and from countries not parties to the Convention.

Frequency and Participation in Emergency Preparedness Exercises - Part 50

On July 21, 1983 (48 FR 33307), NRC published a notice of proposed rulemaking to amend 10 CFR Part 50. The proposed amendments would provide flexibility for emergency preparedness exercise participants in regard to the required frequency and extent of participation in the exercises conducted for nuclear power reactor facilities.

Physical Protection Requirements for Nonpower Reactor Licensees Possessing Formula Quantities of Strategic Special Nuclear Material - Part 73

On July 27, 1983 (48 FR 34056), NRC published a notice of proposed rulemaking to amend its physical protection regulations for nonpower reactor licensees possessing formula quantities of strategic special nuclear material (SSNM).

Regulations and Amendments Proposed

The proposed amendments were prepared in response to a Commission request for the development of these new physical protection requirements. These amendments would replace the interim requirements which are currently in force at these facilities. The result of these amendments will be the most cost-effective approach for providing assurance against the theft of a formula quantity of SSNM, while taking into account the unique features of the facility design, and fuel type and form at nonpower reactors.

REGULATIONS AND AMENDMENTS PROPOSED

Financial Protection Requirements and Indemnity Agreements; Facility Form Policy - Part 140

On October 19, 1983 (48 FR 48474), the NRC published a notice of proposed rulemaking that would add statements to its regulations regarding the text of the Facility Form Policy, including any codified amendatory endorsement or change to the policy. The proposed statement would indicate that this text is an example of a contract that has been "accepted" as evidence of financial protection but that other variations on the text would be considered by the Commission. The proposed amendments would remove the misimpression that the Commission requires the exact language presented in the text of the Facility Form Policy.

Tritium and Source Material Reports - Parts 30, 40, and 150

On November 29, 1983 (48 FR 53714), the NRC published a notice of proposed rulemaking that would amend reporting requirements applicable to NRC and Agreement State licensees who transfer source material. The proposed rule would lower the reportable quantity of source material transfers from 1,000 kilograms to 1 kilogram in order to satisfy existing international commitments. The proposed rule would also remove the requirement that NRC and Agreement State licensees report tritium inventories.

Hybrid Hearing Procedures For Expansions Of Onsite Spent Fuel Storage Capacity At Civilian Nuclear Power Reactors - Parts 2 and 72

On December 5, 1983 (48 FR 54489), the NRC published a notice of proposed rulemaking that contained two options for implementing the hybrid hearing process set out in the Nuclear Waste Policy Act. This hybrid hearing process is to be used in certain contested proceedings on a license application or amendment to expand the spent nuclear fuel storage capacity at the site of a civilian nuclear power reactor. Thy hybrid hearing process would employ less formal procedures in the initial stages of the hearing process and would designate only genuine and substantial issues for resolution in an adjudicatory hearing.

Improved Personnel Dosimetry Processing - Part 20

On January 10, 1984 (49 FR 1205), NRC published a notice of proposed rulemaking that would require NRC licensees to utilize the specified services of dosimetry processors who have been accredited by the National Voluntary Laboratory Accreditation Program of the National Bureau of Standards.

Material Control and Accounting Requirements for Facilities Possessing Formula Quantities of Strategic Special Nuclear Material - Part 70

On February 2, 1984 (49 FR 4091), the NRC published a notice of proposed rulemaking that would significantly strengthen material control and accounting capabilities at all fuel cycle facilities authorized to possess and use formula quantities of strategic special nuclear material, including reprocessing plants but not waste disposal operations or nuclear reactors. The proposed rule would require more timely detection of material losses and provide for more rapid and conclusive resolution of discrepancies.

Pressurized Thermal Shock Events - Part 50

On February 7, 1984 (49 FR 4498), the NRC published a notice of proposed rulemaking that would amend its regulations for light water nuclear power plants. The proposed rule would -- (1) establish a screening criterion related to the fracture resistance of pressurized water reactor vessels during pressurized thermal shock events; (2) require analyses and a schedule for implementation of flux reduction programs that are reasonably practicable to avoid exceeding the screening criterion; and (3) require detailed safety evaluations to be performed before plant operation beyond the screening criterion will be considered.

Disposal of High-Level Radioactive Waste in the Unsaturated Zone - Part 60

On February 16, 1984 (49 FR 5934), the NRC published a notice of proposed rulemaking that would amend regulations pertaining to the disposal of high-level radioactive waste in geologic repositories. The proposed rule would make the technical criteria for geologic disposal in the saturated zone equally applicable to disposal within the unsaturated zone.

Export and Import on Nuclear Equipment and Material - Part 110

On March 1, 1984 (49 FR 7572), the NRC published a notice of proposed rulemaking that would expand the authority of the public to export nonsensitive nuclear equipment and material under a general license. The proposed rule would incorporate the U.S. Government policy of facilitating nuclear cooperation with countries sharing U.S. nonproliferation goals in the new general license, but would not affect the existing rigorous controls over the export of proliferation sensitive nuclear commodities.

Environmental Qualification of Electric Equipment - Part 50

On March 7, 1984 (49 FR 8445), the NRC published a notice of proposed rulemaking seeking public comment on an amendment that would delete from power plant operating licenses a June 30, 1982 deadline for the environmental qualification of electric equipment imposed by a previous commission order. This rulemaking proceeding responds to a decision by the United States Court of Appeals for the District of Columbia vacating and remanding the final rule published June 30, 1982 that suspended the June 30, 1982 deadline.

ADVANCED NOTICES OF PROPOSED RULEMAKING

Backfitting - Part 50

On September 28, 1983 the NRC published an advance notice of proposed rulemaking concerning measures for the imposition of new regulatory requirements for power reactors.

Backfitting - Part 50

On October 7, 1983 (48 FR 45787), the NRC published a correction to an advance notice of proposed rulemaking published on September 28, 1983, concerning the establishment of requirements for the long-term management of its process for the imposition of new regulatory requirements for power reactors. This document corrected an error in the presentation of the separate views of Commissioner Roberts.

Role of NRC Staff in Adjudicatory Licensing Hearings - Part 2

On November 2, 1983 (48 FR 50550), the NRC published an advance notice of proposed rulemaking to request comment on whether and to what extent changes should be made in the NRC staff's present role as a full party in adjudicatory hearings in initial licensing proceedings for nuclear power reactors.

Changes to Rules of Practice

On April 12, 1984 (49 FR 14698) the NRC published a notice requesting comment on a number of proposals for reforming the licensing process through amendments to its rules of practice.

ATTACHMENT TO QUESTION 2: 4-4-84

POLICY STATEMENTS

1. Safety Goal Development Program - March 14, 1983 (48 FR 10772)

   The Policy Statement contains preliminary safety goals and preliminary numerical design objectives that are intended to be consistent with the goals. The goals and objectives are preliminary in that they are subject to a change at the end of a two year evaluation period.

2. Regionalization - March 25, 1983 (48 FR 12619)

   This policy statement sought public comment on initiatives that would enlarge the role of NRC's regional offices in implementing national programs in the areas of selected licensing and support functions that historically have been centralized in NRC's headquarters organizations.

3. Proposed Commission Policy Statement on Severe Accidents and Related Views on Nuclear Reactor Regulation - April 13, 1983 (48 FR 16013)

   This proposed policy summarizes the changes in rules, policies, and regulatory practices that constitute the NRC approach to severe accident rulemaking. The new approach would replace, for all classes of existing or proposed nuclear power plants, unfocused, long-term generic rulemaking with: (1) severe accident rulemakings designed to certify future plant designs and (2) regulatory decisions based on generic evaluation and decisions regarding all existing or proposed plants for which the standard plant rulemaking would not apply.

4. Discontinuance of NRC Authority and Assumption Thereof by States Through Agreement; Criterion for Guidance of States and NRC - July 21, 1983 (48 FR 33376).

   Criterion 9 of the NRC's Policy for Discontinuance of Authority dated January 23, 1981 appearing at FR 7540-7546 deals with waste disposal. It states that the standards for disposal into air, water, and sewer, and burial in soil shall be in accordance with 10 CFR Part 20. This policy statement revises Criterion 9 so that all licensees, both NRC and Agreement States, follow the same system.

5. Draft Commission Policy Statement on Engineering Expertise on Shift - July 25, 1983 (48 FR 33781).

   This draft policy statement proposes NRC's position on ensuring that adequate engineering and accident assessment expertise is provided to the shift supervisor.

6. Investigations and Adjudicatory Proceedings - August 10, 1983 (48 FR 36358).

This policy statement addresses the manner in which the Commission will deal with individual licensing cases while a study is undertaken to resolve potential conflicts between a presiding officer's need in NRC adjudicatory proceedings to be informed of material developments and an investigating office's need to avoid premature disclosures that could compromise inspections or investigations.

7. Revision of Backfitting Process for Power Reactors - September 28, 1983 (48 FR 44173)

   The Commission directs the staff to implement certain interim measures for the imposition of new regulatory requirements for power reactors based on the conclusion that current and past staff practices do not adequately identify and justify proposed new requirements.

8. Regionalization - March 1, 1984 (49 FR 7676)

   This statement deals with the implementation of the policy to enlarge the role of NRC's regional offices in implementing national programs in the areas of selected licensing and support functions that have historically been centralized at headquarters.

9. Financial Qualifications for Electric Utilities - March 5, 1984 (49 FR 7981)

   The Commission announces its intention to conduct an expedited financial qualifications rulemaking to address problems perceived by the Court of Appeals for the District of Columbia Circuit when it granted a petition which challenged the Commission's rule eliminating financial qualifications review requirements for electric utilities. New England Coalition on Nuclear Pollution v. NRC, No. 82-1581 [D.C. Cir. Feb. 7, 1984].

10. General Statement of Policy and Procedure for Enforcement Actions - March 8, 1984 (49 FR 8583)

   This statement informs licenses of minor revisions to NRC enforcement policy based upon its experience to date in implementing that policy.

11. Environmental Qualification for Electric Equipment - March 7, 1984 (49 FR 8422)

   The United States Court of Appeals for the District of Columbia Circuit has vacated and remanded a Commission rule which removed from nuclear power plant operating licenses a June 30, 1982 deadline for the completion of the environmental qualification of certain safety-related electrical equipment. This statement of policy is intended to explain NRC's response to the D.C. Circuit's remand and to describe other related actions the NRC will take until the conclusion of the rulemaking which the Commission intends to initiate.

12. NRC Response to Accidents Occurring During the Transportation of Radioactive Material - March 29, 1984 (49 FR 12335)

    The purpose of the policy statement is to state clearly the extent of NRC's participation and involvement in responding to incidents and accidents relating to the transportation of nuclear materials.

QUESTION 2(c). WHAT ADDITIONAL ADMINISTRATIVE STEPS ARE CURRENTLY UNDER CONSIDERATION?

ANSWER.

THE COMMISSION HAS SOLICITED PUBLIC COMMENTS ON A NUMBER OF PROPOSALS FOR REFORMING THE LICENSING PROCESS INCLUDING: (1) ESTABLISHING A SCREENING BOARD TO RULE ON HEARING REQUESTS, INTERVENTION PETITIONS, AND PROPOSED CONTENTIONS; (2) ELIMINATION OF DISCRETIONARY INTERVENTION; (3) RAISING THE THRESHOLD FOR THE ADMISSION OF CONTENTIONS; (4) LIMITING PERMISSIBLE DISCOVERY AGAINST THE NRC STAFF; (5) REQUIRING THE DEMONSTRATION OF A SPECIAL NEED FOR ORAL TESTIMONY AND CROSS-EXAMINATION; (6) PERMITTING THE LICENSING BOARD TO APPOINT A PANEL OF TECHNICAL EXPERTS; (7) RESTRICTING THE AUTHORITY OF THE LICENSING BOARD TO RAISE ISSUES ON ITS OWN MOTION; (8) PERMITTING THE FILING OF MOTIONS FOR SUMMARY DISPOSITION AT ANY STAGE OF THE PROCEEDING; (9) ALLOWING THE USE OF A HEARING EXAMINER IN PLACE OF A THREE-MEMBER LICENSING BOARD; (10) ELIMINATING THE APPEAL PANEL; AND (11) RESTORING THE COMMISSION'S IMMEDIATE EFFECTIVENESS RULE FOR ALL INITIAL DECISIONS. PUBLIC COMMENTS ARE DUE ON JUNE 11, 1984.

THE COMMISSION IN 1983 PUBLISHED AN ADVANCE NOTICE OF PROPOSED RULEMAKING ON BACKFITTING. PUBLIC COMMENTS HAVE BEEN RECEIVED ON THAT PROPOSAL AND THE COMMISSION IS NOW CONSIDERING A DRAFT PROPOSED RULE PREPARED BY THE STAFF.

ON NOVEMBER 2, 1983, THE COMMISSION PUBLISHED AN ADVANCE NOTICE OF PROPOSED RULEMAKING REGARDING THE ROLE OF THE NRC STAFF IN LICENSING PROCEEDINGS. THE COMMISSION HAS SOLICITED COMMENTS ON FOUR OPTIONS. THE COMMISSION IS PRESENTLY CONSIDERING THE PUBLIC COMMENTS. AS PART OF THESE DELIBERATIONS, THE COMMISSION IS ALSO CONSIDERING REVISING ITS REGULATIONS ON EX PARTE COMMUNICATIONS AND SEPARATION OF FUNCTIONS.

THE CHIEF ADMINISTRATIVE JUDGE, ASLBP, IS DRAFTING A COMPLETE REWRITE OF 10 CFR PART 2 TO CLARIFY AND SIMPLIFY THE COMMISSION'S RULES OF PRACTICE.

PROPOSED RULES ARE BEING DEVELOPED TO GOVERN INFORMAL HEARINGS ON MATERIALS LICENSE APPLICATIONS AND AMENDMENTS.

FINALLY, THE STAFF IS DRAFTING A POLICY STATEMENT RELATING TO HOW THE AGENCY WILL HANDLE INFORMATION DEVELOPED IN INVESTIGATIONS AND INSPECTIONS WHICH RELATE TO ISSUES THAT ARE SUBJECTS OF ONGOING ADJUDICATORY PROCEEDINGS, AND A POLICY STATEMENT RELATING TO THE AGENCY'S POLICY ON CONFIDENTIALITY.

QUESTION 3. PLEASE SUMMARIZE THE COMMISSION'S CURRENT PLANS WITH RESPECT TO EXPANDED USE OF THE INTEGRATED ASSESSMENT METHODOLOGY DEVELOPED IN CONJUNCTION WITH PHASE II OF THE SYSTEMATIC EVALUATION PROGRAM. HAS THE STAFF COMPLETED ITS PROPOSALS TO EXTEND THE USE OF THIS METHODOLOGY, REFERRED TO IN RESPONSE TO WRITTEN QUESTION #12 FROM LAST YEAR'S BUDGET HEARING? IF SO, PLEASE PROVIDE A COPY. IF NOT, WHEN DO YOU EXPECT THIS WORK TO BE COMPLETED?

ANSWER.

THE NRC STAFF HAS DEVELOPED A PROPOSAL FOR AN INTEGRATED SAFETY ASSESSMENT PROGRAM (ISAP) FOR OPERATING REACTORS, WHICH WOULD APPLY THE INTEGRATED ASSESSMENT PROCESS TO PENDING REGULATION REQUIREMENTS AS WELL AS THE SIGNIFICANT ISSUES DERIVED FROM PHASE II OF THE SYSTEMATIC EVALUATION PROGRAM (SEP). THE COMMISSION IS REVIEWING THE STAFF'S PROPOSAL FOR AN ISAP PILOT PROGRAM, AND AFTER REVIEW AND APPROVAL, THE COMMISSION PLANS TO FORWARD A REPORT TO THE CONGRESS DESCRIBING THE EXPERIENCE GAINED FROM SEP AND HOW THE RESOURCES BUDGETED FOR ISAP WOULD BE USED.

QUESTION 4. HAS THE OFFICE OF GENERAL COUNSEL COMPLETED ITS ANALYSIS OF THE COMMISSION'S EXISTING AUTHORITY AND THE NEED FOR ADDITIONAL STATUTORY AUTHORITY TO DEAL WITH CASES SUCH AS THE "RAY MILLER" CASE? IF SO, PLEASE PROVIDE A COPY. IF NOT, WHEN DO YOU EXPECT THIS WORK TO BE COMPLETED?

ANSWER.

ATTACHED IS THE GENERAL COUNSEL'S ANALYSIS.

COMMISSIONER BERNTHAL ADDS:

THE COMMISSION HAS NEVER FORMALLY ADDRESSED THE QUESTION OF ITS AUTHORITY OVER NON-LICENSEES. IT MAY WELL BE THAT THE COMMISSION'S ONLY CLEAR AUTHORITY OVER NON-LICENSEES IS LIMITED TO THAT PROVIDED UNDER SECTION 206 OF THE ENERGY REORGANIZATION ACT. SECTION 206 EXTENDS THAT AUTHORITY TO INDIVIDUALS, BUT NOT TO NON-LICENSEE ENTITIES. WHILE THE COMMISSION MAY HAVE LEVERAGE OVER LICENSEES THROUGH WHICH IT MAY REACH NON-LICENSEES, IT IS NOT CLEAR THAT WE HAVE DIRECT STATUTORY AUTHORITY OVER VENDOR ORGANIZATIONS. THE NRC HAS CONSIDERED SEEKING AN AMENDMENT TO SECTION 206 TO CLARIFY ITS AUTHORITY IN THIS AREA. IF THE COMMISSION WISHES TO EXERCISE SUCH AUTHORITY, IT SHOULD ASK CONGRESS TO SPEAK TO THE ISSUE.

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

April 8, 1983

MEMORANDUM FOR: Commissioner Asselstine

FROM: HHEP Herzel H. E. Plaine, General Counsel

SUBJECT: NRC AUTHORITY OVER VENDORS

This is in response to your request for a discussion of the extent of NRC statutory authority to regulate domestic activities of vendors of nuclear power plant equipment. We conclude, for the reasons which follow, that NRC could, if it wished, exercise broad licensing and regulatory authority over many such vendors. The statutory provisions in point are sections 11cc., 101, 103, 109 and 161 of the Atomic Energy Act ("AEA") and section 206 of the Energy Reorganization Act. We shall discuss the Atomic Energy Act first.

Under section 101 any person who wishes to "manufacture," "produce," "possess," or "transfer" any "utilization facility" must obtain an NRC license under sections 103 or 104. Under sections 103, 104 and 161 NRC may issue licenses for such activities, with or without conditions, and may issue regulations governing the grant and denial of license applications and the conduct of the licensed activities. Licensees are subject to NRC inspections under section 161o., violations of regulations and license conditions by licensees are subject to civil penalties under section 234 and criminal penalties under section 223 (willful violations of certain regulations and orders), and violations are also grounds for license revocation or suspension under section 186. Component parts are specifically addressed in section 11cc. Under section 11cc.(2) NRC may define as a "utilization facility," "any important component part especially designed for such equipment or device as determined by the Commission." If the Commission determines by regulation that particular component parts -- for example reactor pressure vessels -- are "utilization facilities" under the AEA, then all the sections of the Act cited above would be fully applicable. This would mean that vendors of these component parts could be made subject to full NRC licensing, inspection, and enforcement. However, the same full range of requirements applicable to electric utilities need not apply to vendors of component

Contact:
Martin G. Malsch, OGC, 41465

parts. Under section 109a. NRC may issue general licenses for such component parts. 1/ This means that NRC may, by rule, grant vendors of component parts a general license to "manufacture," "produce," "process" and "transfer" the part subject only to satisfaction of specific NRC requirements -- for example, instituting QA/QC procedures, keeping certain records, opening premises to NRC inspections, and reporting defects or QA/QC problems to NRC.

NRC authority over component parts appears to be quite broad, subject only to the limitations that the part be "especially designed" for the reactor. This clearly includes such custom designed items as control rod device mechanisms, steam generators, and pressure vessels. The only reference to the Commission's "component part" licensing authority in the legislative history of the Atomic Energy Act of 1954 suggests that the term may have broader application. During the hearings before the Joint Committee on Atomic Energy a witness for GE testified on the bill with language identical to that actually enacted as follows:

> The present definitions of both production and utilization facilities operate to bring under the Commission's licensing system not only the manufacturers of the actual facilities, but also the manufacturers of "any important component part especially designed for such equipment or device." Any complicated piece of equipment, such as an atomic reactor, is to all intents and purposes custom built. Thus, all of the important component parts would probably be specially designed for such equipment.
>
> Even though custom built, many of such component parts would probably be no different in kind from ordinary, nonatomic pieces of custom-built industrial equipment. Recognition should be given to this fact, in order to avoid unnecessarily increasing the coverage of the licensing provision. We don't believe that it is really necessary or

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1/ Section 109b. deals specifically with Commission authority to define component parts which are "especially relevant from the standpoint of export control because of their significance for nuclear explosive purposes." This indicates that the Commission may define "important component parts" under section 11cc.(2) differently for domestic health and safety and export control purposes.

> practical for all companies involved in the production of component parts to be licensed by the Commission. 2/

This indicates an understanding on the part of the witness that something may be an "important component part especially designed" for a utilization facility even though it is no different in kind than a component found in some non-nuclear applications. This would mean that a component could be "especially designed" for a utilization facility even though the kind of component is not unique to nuclear uses. For example, piping, pumps and valves would fall in this category. The Commission could determine to include them under section 11cc.(2) even though they are also found in other non-nuclear facilities. On the other hand, the Act and legislative history are unclear whether particular component parts which are specifically designed for a wide variety of both nuclear and non-nuclear applications can be "especially designed" for utilization facilities merely by virtue of the applications during manufacture of special QA/QC controls applicable to nuclear uses. Component parts which have a wide variety of both nuclear and non-nuclear uses and which, at the time of manufacture, are not subject to special nuclear QA/QC controls would appear to fall outside the scope of section 11cc.(2). These parts would have nothing that distinguishes them from non-nuclear component parts. The policy issues associated with general or specific licensing of component parts could be explored in the rulemaking that would be necessary to implement section 11cc.(2). We understand that staff is, on its own initiative, exploring some of the issues that are involved.

Section 161 of the Act grants broad rulemaking and ordering authority to the Commission. Most of the grant of authority is keyed to activities requiring a Commission license (e.g., sections 161b., 161i.(2), 161o., 161w., 161x.). However, section 161i.(3) is a broad grant of authority to prescribe "regulations or orders as it [the Commission] may deem necessary ... to govern any activity authorized pursuant to this Act ...", and section 161p. is an even broader grant of authority to "issue ... such regulations as may be necessary

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2/ Statement of Francis K. McCune, General Manager, Atomic Products Division, General Electric Company, II Leg. Hist. 1966. The identical terms appear in section 18(g) of the Atomic Energy Act of 1946, so it can reasonably be assumed that the drafters of the 1954 Act simply borrowed the language from the 1946 Act. There appears to be no helpful legislative history in the 1946 Act.

to carry out the purpose of this Act." The Act, in its broadest sense, authorized the creation of a civilian nuclear power industry, and therefore the grant of authority in section 161i.(3) arguably covers all of that industry, including vendors of component parts. However, Section 161i.(3) was more narrowly construed in Reynolds v. U.S., 286 F.2d 433 (9th Cir. 1960). In Reynolds, AEC argued unsuccessfully in a criminal case that the subsection authorized issuance of a rule forbidding private individuals from entering upon certain areas designated for nuclear weapons tests in the Eniwetok Proving Grounds. After examining the statutory language and legislative history, the Court concluded that section 161i.(3) refers only to "activities of private industry authorized by the Atomic Energy Commission pursuant to the powers granted to it in sections 31, 41, 53, 81, 103 and 104." Id. at 438. In other parts of the opinion the Court characterized 161i. as only granting authority over "licensees." Id. at 438, 441.

Section 161p. has not been construed in any authoritative sense. The Court in Reynolds noted that the trespass regulation at issue was within the scope of section 161p., but this is dictum since it was conceded in the case that no criminal penalty could be sustained for a violation of a regulation issued under 161p. Thus, the extent of authority under section 161p. is unclear. Certainly it can be used to bolster authority granted by sections 11cc., 101, 103, and 104.

Finally, section 161c. authorizes the Commission to "make such studies and investigations [and] obtain such information ... as [it] may deem necessary or proper to assist it in exercising any authority provided in this Act or in the administration or enforcement of ... any regulations or orders issued thereunder." For such purposes the Commission is authorized to "by subpoena to require any person to appear and testify, or to appear and produce documents, or both ...." While this subsection does not, by its terms, authorize enforcement action such as civil penalties, it does authorize NRC inspections and investigations so long as they would assist NRC in exercising its statutory authority or in enforcing its regulations or orders. The subsection has not been judicially construed but the language would appear to be broad enough to authorize NRC inspection of vendor premises and records. However, there is some possibility that authority under the subsection could be narrowly confined to licensees, as in Reynolds v. U.S., on the theory that the Act does not grant any authority over vendors as such and therefore inspection of vendor records or premises could not assist NRC in exercising any statutory authority. Moreover, it is possible that, if the vendor insisted, a search warrant would be required under Marshall v. Barlow's, Inc., 436 U.S. 307 (1978).[3]

The last statutory provision is section 206 of the Energy Reorganization Act of 1974. It requires "any individual director, or responsible officer" of vendor firms to inform NRC of specified defects and non-compliances. This section does not, by its terms, grant any authority over the vendors themselves, except for subsection 206(b), which requires posting of the section 206 notice requirement on vendor premises, and possibly 206(d), which authorizes the Commission to "conduct such reasonable inspections and other enforcement activities as needed to insure compliance" with section 206. Section 206(d) clearly grants NRC limited authority to require vendors to post the required notices. The extent of the authority granted by section 206(d) is unclear. The

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[3] Under Marshall no warrant would be needed for inspections of an entity that is subject to a pervasive system of regulation such that it has no reasonable expectation of privacy. Id. at 313. However, unlicensed vendors may not fall under the exception. Even if some warrant is required, probable cause for the warrant need not be premised on evidence of some specific violation or safety problem on the premises. The Court stated in Marshall that:

> Probable cause in the criminal law sense is not required. For purposes of an administrative search such as this, probable cause justifying the issuance of a warrant may be based not only on specific evidence of an existing violation but also on a showing that "reasonable legislative or administrative standards for conducting an ... inspection are satisfied with respect to a particular [establishment]." .... A warrant showing that a specific business has been chosen for an OSHA search on the basis of a general administrative plan for the enforcement of the Act derived from neutral sources such as, for example, dispersion of employees in various types of industries across a given area, and the desired frequency of searches in any of the lesser divisions of the area, would protect an employer's Fourth Amendment rights. We doubt that the consumption of enforcement energies in the obtaining of such warrants will exceed manageable proportions. (Id. at 320-321)

"inspection and enforcement activities" would certainly include NRC power to enter and inspect vendor premises for possible defects and non-compliances, and would probably also include authority to impose recordkeeping requirements relating to defects and non-compliances. It is very much an open question whether section 206(d) could be used as a basis for a stop-work order or civil penalty. 4/

The last item of your inquiry was whether additional authority would be useful to the Commission.

We need thought, study, and discussion with the Staff on practical aspects, in order to evolve a helpful answer. Therefore, we are pursuing the subject further, and hope to provide views on it in a later, separate memorandum.

cc: Chairman Palladino
Commissioner Gilinsky
Commissioner Ahearne
Commissioner Roberts
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4/ It should be noted that NRC is clearly authorized under sections 103, 104 and 161 to require utility licensees to include provision in their vendor contracts and subcontracts requiring vendors to make their premises and records subject to NRC inspections. Moreover, NRC could refuse to grant a license to a utility for a plant which included component parts whose quality could not be verified by NRC because the vendor had refused to make its premises and records available for NRC inspection. However, this authority over vendors is indirect -- it is only exercised through the contracting utility.

QUESTION 5. • PLEASE PROVIDE A SUMMARY OF THE ACTIVITIES OF THE COMMITTEE FOR THE REVIEW OF GENERIC REQUIREMENTS FROM FEBRUARY 1983 THROUGH THE PRESENT.

ANSWER.

FROM FEBRUARY 1983 THROUGH JANUARY 1984, THE CRGR HAS HELD 24 MEETINGS AND ADDRESSED 47 AGENDA ITEMS:

8 ITEMS WERE BRIEFING ITEMS, THEREFORE, CRGR RECOMMENDATIONS WERE NOT REQUIRED.

8 ITEMS:	CRGR RECOMMENDED ADDITIONAL STAFF WORK,
24 ITEMS:	CRGR RECOMMENDED APPROVAL AFTER MODIFICATION,
5 ITEMS:	CRGR RECOMMENDED APPROVAL AS PROPOSED, AND
2 ITEMS:	CRGR RECOMMENDED DISAPPROVAL AS PROPOSED.

THESE AGENDA ITEMS CONCERNED PROPOSED RULES, PROPOSED BULLETINS, PROPOSED REGULATORY GUIDES, MAJOR POLICY ISSUES AND BRIEFINGS.

QUESTION 6. DOES THE COMMISSION INTERPRET THE NUCLEAR WASTE POLICY ACT AS REQUIRING THE DEPARTMENT OF ENERGY, UPON COMPLETION OF SITE CHARACTERIZATION ACTIVITIES PURSUANT TO SECTION 113, TO HAVE THREE SITES, ALL OF WHICH ARE QUALIFIED FOR APPLICATION FOR A CONSTRUCTION AUTHORIZATION, FROM WHICH TO SELECT A SINGLE SITE FOR CONSTRUCTION OF THE REPOSITORY? PLEASE PROVIDE THE SUPPORTING LEGAL ANALYSIS.

ANSWER.

THE NUCLEAR WASTE POLICY ACT DOES NOT REQUIRE THREE SITES TO BE QUALIFIED FOR APPLICATION FOR CONSTRUCTION AUTHORIZATION IF THEY APPEARED TO BE QUALIFIED AT THE TIME THE SECRETARY OF ENERGY MADE THE PRELIMINARY DETERMINATION PURSUANT TO SECTION 114(F). THIS CONCLUSION IS COMPELLED ONLY BECAUSE THE PARTICULAR FACTS SURROUNDING THE IMPLEMENTATION OF THE DOE SITE CHARACTERIZATION PROGRAM ARE NOT NOW KNOWN AND KNOWLEDGE OF THOSE FACTS IS CRITICAL TO A PROPER INTERPRETATION. UNDER SECTION 112, THE SECRETARY IS TO PROMULGATE GENERAL GUIDELINES FOR THE RECOMMENDATION OF SITES FOR REPOSITORIES. SOME OF THE GUIDELINES CANNOT BE FULLY APPLIED UNTIL THE SITES HAVE BEEN CHARACTERIZED. SITE CHARACTERIZATION IS COMPLETE FOR A PARTICULAR SITE WHEN THE SECRETARY CONSIDERS THAT SUFFICIENT DATA HAVE BEEN OBTAINED TO EVALUATE THE SUITABILITY OF THE SITE FOR APPLICATION FOR A CONSTRUCTION AUTHORIZATION. IF THE SECRETARY DETERMINES THAT THE SITE IS UNSUITABLE, THE SECRETARY MUST TAKE STEPS TO RECLAIM THE SITE AND MITIGATE ADVERSE ENVIRONMENTAL EFFECTS. WHEN THE SECRETARY OF ENERGY HAS MADE A

PRELIMINARY DETERMINATION THAT THREE SITES HAVE BEEN IDENTIFIED WHICH ARE SUITABLE FOR DEVELOPMENT AS REPOSITORIES CONSISTENT WITH THE GUIDELINES PROMULGATED UNDER SECTION 112(A), THE SECRETARY THEN UNDERTAKES THE PROCESS THAT LEADS TO A RECOMMENDATION FOR LICENSING OF THE FIRST REPOSITORY PURSUANT TO SECTION 114. THIS PROCESS CULMINATES IN A FINAL ENVIRONMENTAL IMPACT STATEMENT UNDER SECTION (114(F), IN WHICH THE SECRETARY IS TO CONSIDER AS ALTERNATE SITES, FOR THE PURPOSES OF COMPLYING WITH THE REQUIREMENTS OF NEPA AND SECTION 114(F), "3 CANDIDATE SITES WITH RESPECT TO WHICH (1) SITE CHARACTERIZATION HAS BEEN COMPLETED UNDER SECTION 113; AND (2) THE SECRETARY HAS MADE A PRELIMINARY DETERMINATION, THAT SUCH SITES ARE SUITABLE FOR DEVELOPMENT AS REPOSITORIES CONSISTENT WITH THE GUIDELINES PROMULGATED UNDER SECTION 112(A)."

AT THE TIME OF THE PRELIMINARY DETERMINATION, THERE SHOULD BE THREE QUALIFIED SITES. THE NWPA DOES NOT SPECIFY, HOWEVER, WHEN THAT PRELIMINARY DETERMINATION IS TO BE MADE. THE EARLIER THE DETERMINATION IS MADE, THE GREATER THE LIKELIHOOD THAT SUBSEQUENT DEVELOPMENTS OR NEW INFORMATION COULD CALL ITS CONTINUING VALIDITY INTO QUESTION. THE SECRETARY MAY MAKE A PRELIMINARY DETERMINATION THAT A PARTICULAR SITE IS SUITABLE FOR DEVELOPMENT AS A REPOSITORY AND THEN DISCOVER, LATE IN THE PROCESS, THAT THE SITE IS NO LONGER QUALIFIED UNDER ONE OR MORE OF THE GUIDELINES. THEREFORE, WITHOUT KNOWING ALL THE FACTS, THE COMMISSION CANNOT CONCLUDE UNDER WHICH CIRCUMSTANCES, AS A MATTER

OF LAW, THE SECRETARY WOULD BE PRECLUDED FROM PROCEEDING WITH AN APPLICATION FOR A CONSTRUCTION AUTHORIZATION AND LICENSE.

IN ITS PRELIMINARY DECISION ON CONCURRENCE IN THE DOE SITING GUIDELINES, PUBLISHED IN THE FEDERAL REGISTER ON MARCH 14, 1984, THE COMMISSION INCLUDED A CONDITION THAT WOULD REQUIRE DOE TO SPECIFY IN GREATER DETAIL HOW THE GUIDELINES WILL BE APPLIED AND THE KINDS OF INFORMATION NEEDED AT EACH SITING STAGE, INCLUDING SITE NOMINATION AND CHARACTERIZATION. THIS MEASURE SHOULD HELP TO ENSURE THE SELECTION OF SITES THAT WOULD BE REASONABLE CANDIDATES FOR A LICENSE APPLICATION AS WELL AS REASONABLE ALTERNATIVES FOR AN EIS.

COMMISSIONER ASSELSTINE ADDS:
COMMISSIONER ASSELSTINE NOTES THAT THE COMMISSION MUST CONSIDER THIS QUESTION AS PART OF ITS CONCURRENCE PROCESS FOR THE DOE SITE SELECTION GUIDELINES. HE HAS NOT YET REACHED A DECISION ON THIS MATTER.

QUESTION 7. SECTION 134 OF THE NUCLEAR WASTE POLICY ACT REQUIRES THE COMMISSION TO EMPLOY HYBRID HEARINGS IN THE LICENSING OF CERTAIN FACILITY EXPANSIONS AND TRANSSHIPMENTS. DO YOU AGREE THAT THE PROCEDURES DESCRIBED IN THIS SECTION ARE MANDATORY, NOT DISCRETIONARY? PLEASE PROVIDE THE SUPPORTING LEGAL ANALYSIS.

ANSWER.

THE COMMISSION BELIEVES THAT BOTH READINGS OF THE STATUTORY LANGUAGE ARE POSSIBLE. SECTION 134 PROVIDES, IN PERTINENT PART, THAT "THE COMMISSION SHALL, AT THE REQUEST OF ANY PARTY, PROVIDE AN OPPORTUNITY FOR ORAL ARGUMENT WITH RESPECT TO ANY MATTER WHICH THE COMMISSION DETERMINES TO BE IN CONTROVERSY AMONG THE PARTIES." THE ORAL ARGUMENT CAN BE REGARDED AS THE ESSENTIAL FIRST STEP IN THE HYBRID HEARING PROCESS.
SECTION 134 DOES NOT REQUIRE THAT ORAL ARGUMENT BE HELD; RATHER, IT REQUIRES THE COMMISSION TO PROVIDE AN OPPORTUNITY FOR ORAL ARGUMENT IF A PARTY SO REQUESTS. UNDER THIS VIEW, IF NO PARTY REQUESTS AN ORAL ARGUMENT, THE HYBRID HEARING PROCEDURES ARE NOT TRIGGERED AND ANY HEARING, IF REQUIRED UNDER

SECTION 189 OF THE ATOMIC ENERGY ACT, WILL PROCEED IN ACCORDANCE WITH THE COMMISSION'S RULES OF PRACTICE IN 10 CFR PART 2, SUBPART G.

THE OPPOSITE VIEW IS THAT, UNDER SECTION 134, HYBRID PROCEDURES ARE, IN ESSENCE, A PRECONDITION TO AN ADJUDICATORY HEARING. BEFORE AN ADJUDICATORY HEARING MAY BE HELD, A PARTY MUST REQUEST AND PARTICIPATE IN AN ORAL ARGUMENT. AT THE TIME OF ORAL ARGUMENT, EACH PARTY MUST SUBMIT A WRITTEN SUMMARY OF THE FACTS, DATA, AND ARGUMENTS ON WHICH IT PROPOSES TO RELY. AT THE CONCLUSION OF ORAL ARGUMENT, THE COMMISSION WILL EXAMINE THE PARTIES' WRITTEN SUBMISSIONS AND DESIGNATE ISSUES FOR ADJUDICATION ONLY IF IT DETERMINES THAT GENUINE, SUBSTANTIAL, AND MATERIAL DISPUTES OF FACT EXIST. THIS VIEW IS BASED ON THE MANDATORY LANGUAGE THAT IS USED THROUGHOUT SECTION 134.

THE COMMISSION NOTES THAT THERE IS LEGISLATIVE HISTORY IN SUPPORT OF EITHER VIEW. THE SENATE REPORT ACCOMPANYING S.1662 DESCRIBES A PREDECESSOR OF SECTION 134 AS "AUTHORIZ[ING] THE COMMISSION TO USE HYBRID HEARING PROCEDURES." S. REP. NO. 282, 97TH CONG., 1ST SESS. 13 (1981). IN CONTRAST, THE HOUSE REPORT ACCOMPANYING H.R. 6598, WHICH ALSO CONTAINED A PREDECESSOR OF SECTION 134, STATES: "PROCEDURAL CHANGES ARE

MADE TO THE NRC LICENSING PROCESS TO ENCOURAGE UTILITIES TO EXPAND STORAGE CAPACITY AT REACTOR SITES." H. REP. NO. 785, 97TH CONG., 2D. SESS. 39 (1982).

ON DECEMBER 5, 1983, THE COMMISSION PUBLISHED FOR PUBLIC COMMENT TWO VERSIONS OF A PROPOSED RULE TO IMPLEMENT THE HYBRID HEARING PROCESS. OPTION 1 WOULD REQUIRE THE USE OF HYBRID HEARING PROCEDURES IN ALL PROCEEDINGS TO WHICH SECTION 134 APPLIES. OPTION 2 WOULD PERMIT THE USE OF HYBRID PROCEDURES AT THE REQUEST OF ANY PARTY TO THE PROCEEDING. THE COMMENT PERIOD EXPIRED ON FEBRUARY 20, 1984 AND THE STAFF IS CURRENTLY EVALUATING THE COMMENTS RECEIVED ON THESE PROPOSALS. UPON RECEIPT OF THE STAFF'S EVALUATION, THE COMMISSION WILL DETERMINE WHETHER TO ADOPT A MANDATORY OR A PERMISSIVE APPROACH IN CONNECTION WITH ITS HYBRID HEARINGS RULE.

QUESTION 8. WHAT PROTECTIONS ARE CURRENTLY IN PLACE IN THE NRC PROCEDURES REGARDING THE INVESTIGATION OF ALLEGATIONS THAT SAFEGUARD AGAINST THE ABUSE OF THE PROCESS FROM THE FILING OF UNSUBSTANTIATED ALLEGATIONS?

ANSWER.

THE NRC STAFF HAS DEVELOPED A SYSTEM TO RECEIVE, TRACK, AND EVALUATE ALL ALLEGATIONS REPORTED TO THE NRC. THE EVALUATION PROCESS ENSURES THAT ALL ALLEGATIONS ARE GIVEN AN OBJECTIVE REVIEW BY COGNIZANT TECHNICAL PERSONNEL TO DETERMINE THEIR APPARENT SUBSTANCE, PLAUSIBILITY, SIGNIFICANCE, AND ACCURACY. THIS PROCESS ALLOWS MOST ALLEGATIONS TO BE HANDLED BY THE NRC INSPECTION PROCESS. ONLY THOSE ALLEGATIONS THAT INVOLVE WRONGDOING ARE REFERRED TO OI. EVEN THEN, OI PURSUES ONLY THOSE MATTERS THAT ARE INDICATIVE OF VIOLATIONS OF NRC REQUIREMENTS AND REQUIRE INVESTIGATION TO RESOLVE SUFFICIENTLY.

THE NRC ENCOURAGES PERSONS WITH SAFETY CONCERNS TO BRING THESE TO THE ATTENTION OF THE NRC. WE FEEL THAT THE FOREGOING PROCEDURES ARE SUFFICIENT TO ENSURE THAT ONLY SEEMINGLY MERITORIOUS ALLEGATIONS ARE PURSUED BY THE STAFF OR OI. RELATEDLY, IT IS IMPORTANT TO NOTE THAT WE HAVE NOT ENCOUNTERED EVIDENCE THAT PERSONS OR GROUPS ARE DELIBERATELY ABUSING THE ALLEGATION PROCESS, NOTWITHSTANDING THE LARGE NUMBER THAT ARE EVENTUALLY DETERMINED TO BE UNSUBSTANTIATED. MANY TIMES, AN ALLEGATION IS FOUND TO BE UNSUBSTANTIATED EITHER BECAUSE IT DOES NOT, UPON

EXAMINATION, INVOLVE A SAFETY SYSTEM, OR BECAUSE THE PERSON MAKING THE ALLEGATIONS IN GOOD FAITH WAS SIMPLY WRONG. WE BELIEVE THAT THE CURRENT SYSTEM HAS WITHIN IT SUFFICIENT CHECKS AND BALANCES TO GUARD AGAINST POTENTIAL ABUSES WHILE AT THE SAME TIME ENSURING A CONTINUAL FLOW OF INFORMATION TO THE NRC.

COMMISSIONER ROBERTS ADDS:

THE ASSERTION THAT THE NRC CONSIDERS ALLEGATIONS TO BE UNSUBSTANTIATED UNTIL A STAFF EVALUATION AND RESOLUTION RESULTS IN A DETERMINATION OF VALIDITY IS SOMEWHAT MISLEADING. WHILE IT IS TRUE THAT THE NRC DOES NOT TAKE ENFORCEMENT ACTION BASED ON UNSUBSTANTIATED ALLEGATIONS, THE COMMISSION MAJORITY HAS ALLOWED UNSUBSTANTIATED ALLEGATIONS TO DELAY APPROVAL OF OPERATING LICENSES FOR DIABLO CANYON UNIT 1 AND LASALLE UNIT 1. GIVEN THIS CURRENT PRACTICE, I FIND IT LIKELY, THOUGH UPSETTING, THAT UNSUBSTANTIATED ALLEGATIONS WILL LEAD TO UNNECESSARY DELAYS IN THE FUTURE. I DO BELIEVE THAT THE COMMISSION SHOULD BE RESPONSIVE IN INVESTIGATING VALID SAFETY ALLEGATIONS. HOWEVER, OUR MANAGEMENT OF ALLEGATIONS COULD BE MADE MORE EFFICIENT. ONE WAY TO ELIMINATE UNWARRANTED DELAYS WOULD BE TO REQUIRE THAT ALLEGATIONS SATISFY A HIGHER THRESHOLD BY PROVIDING A DEMONSTRATION OF AN IMPORTANT SAFETY PROBLEM.

QUESTION 9. UNDER WHAT CIRCUMSTANCES IS THE LICENSEE INFORMED OF THE SUBSTANCE OF ANY ALLEGATIONS THAT MAY HAVE BEEN FILED? IS THE LICENSEE NOTIFIED OF ALLEGATIONS THAT HAVE SAFETY SIGNIFICANCE?

ANSWER.

LICENSEES ARE PROMPTLY NOTIFIED UPON RECEIPT OF AN ALLEGATION CONSIDERED TO BE OF IMMEDIATE SIGNIFICANCE TO PUBLIC HEALTH AND SAFETY TO ASSURE THAT PROPER ACTION IS TAKEN IN A TIMELY MANNER. FOR OTHER ALLEGATIONS NOT OF IMMEDIATE SAFETY SIGNIFICANCE, NRC PERSONNEL PERFORM AN EVALUATION OF THE CONCERNS AND DURING THIS PROCESS MAY CONTACT THE LICENSEE TO PERFORM AN INSPECTION OR TO REQUEST INFORMATION. AN INSPECTION REPORT AND A NOTICE OF VIOLATION MAY RESULT. IN THIS WAY, A LICENSEE MAY LEARN OF THE EXISTENCE OF AN ALLEGATION. OTHER THAN THE ABOVE, NRC POLICY DOES NOT REQUIRE INFORMING THE LICENSEE REGARDING THE FILING OF EACH ALLEGATION.

QUESTION 10. DOES THE LICENSEE HAVE THE RIGHT TO PETITION THE NRC FOR DISCLOSURE OF THE SUBSTANCE OF ALL ALLEGATIONS FILED IN A PARTICULAR CASE?

ANSWER.

THERE IS NO EXPRESS PROVISION IN NRC REGULATIONS THAT PROVIDES FOR THE DISCLOSURE OF THE SUBSTANCE OF ALLEGATIONS AT THE LICENSEE'S REQUEST. LICENSEES CAN MAKE REQUESTS UNDER THE FREEDOM OF INFORMATION ACT FOR DOCUMENTS PERTAINING TO ALLEGATIONS CONCERNING THEIR FACILITIES, BUT SUCH DOCUMENTS MAY BE EXEMPT FROM DISCLOSURE IF, FOR EXAMPLE, THE COMMISSION DETERMINES THAT DISCLOSURE WOULD INTERFERE WITH ENFORCEMENT PROCEEDINGS OR DISCLOSE THE IDENTITY OF A CONFIDENTIAL SOURCE. IF A WORKER MAKES A FORMAL REQUEST FOR AN INSPECTION IN ACCORDANCE WITH 10 CFR 19.16(A), THE LICENSEE IS ENTITLED TO RECEIVE A COPY OF THE WRITTEN NOTICE OF REQUEST FOR INSPECTION (NAMES OF THE REQUESTOR AND OTHER INDIVIDUALS IDENTIFIED IN THE NOTICE MAY BE OMITTED FROM THE COPY).

AS STATED IN RESPONSE TO QUESTION 9 ABOVE, THE NRC WILL ENSURE THAT A LICENSEE IS INFORMED OF ALLEGATIONS WHICH MAY REQUIRE PROMPT ACTION TO REMEDY NONCOMPLIANCE OR OTHERWISE REMOVE A THREAT TO PUBLIC HEALTH AND SAFETY. SUCH INFORMATION WOULD BE PROVIDED

TO THE LICENSEE WITH DUE REGARD FOR THE CONFIDENTIALITY REQUESTED BY THE SOURCE OF THE ALLEGATION. DURING THE CONDUCT OF NRC INSPECTIONS AND INVESTIGATIONS, THE NRC WILL NOT REVEAL, AND IS UNDER NO OBLIGATION TO REVEAL, THE ENTIRE SUBSTANCE OF ALLEGATIONS WHERE DISCLOSURE MAY INTERFERE WITH NRC INSPECTION OR INVESTIGATORY EFFORTS. TO THE EXTENT THAT THE NRC RELIES DIRECTLY ON SUCH ALLEGATIONS IN LICENSING OR ENFORCEMENT PROCEEDINGS, THE NRC WOULD BE OBLIGATED TO REVEAL THE SUBSTANCE OF THE ALLEGATIONS THROUGH THE ADJUDICATORY PROCESS.

QUESTION 11.	IN HOW MANY CASES HAS THE NRC FORMALLY NOTIFIED THE LICENSEE THROUGH THE ISSUANCE OF 50.54(F) LETTER OF THE SUBSTANCE OF ANY FILED ALLEGATIONS?

ANSWER.

WHILE NO NRC RECORDS ARE MAINTAINED REGARDING THE NUMBER OF 50.54(F) LETTERS ISSUED TO LICENSEES AS A RESULT OF ALLEGATIONS, WE ARE AWARE THAT ONE SUCH LETTER WAS ISSUED EARLIER THIS YEAR. THE STAFF HAS ALSO ISSUED 50.54(F) LETTERS TO FIVE LICENSEES REGARDING ALLEGATIONS CONCERNING THE SAFETY OF THEIR NUCLEAR PLANTS MADE IN PETITIONS TO THE NRC UNDER 10 CFR 2.206. IN THESE INSTANCES, PERSONS FILED REQUESTS FOR ENFORCEMENT ACTION ON THE BASIS OF SPECIFIED FACTS AND THE LICENSEES WERE ASKED TO PROVIDE A FORMAL RESPONSE UNDER 50.54(F) TO THE 2.206 PETITION.

QUESTION 12. WHEN THE NRC ISSUES A BOARD NOTIFICATION THAT A SUBSTANTIVE ALLEGATION HAS BEEN FILED THAT MAY BE MATERIAL AND RELEVANT TO ISSUES PENDING BEFORE A LICENSING BOARD, IS THE LICENSEE ALSO NOTIFIED?

ANSWER.

AS A GENERAL RULE, WHEN THE NRC STAFF ISSUES A BOARD NOTIFICATION, THE INFORMATION TRANSMITTED TO THE APPROPRIATE BOARD IS ALSO SENT TO THE APPLICANT/LICENSEE AND ALL OTHER PARTIES TO THE PROCEEDING, EXCEPT UNDER THE CIRCUMSTANCES DISCUSSED BELOW.

IF IT IS DETERMINED BY THE STAFF OR THE COMMISSION'S OFFICE OF INVESTIGATIONS THAT DISCLOSURE OF THE INFORMATION/ALLEGATION COULD IMPAIR THE COMMISSION'S ABILITY TO INITIATE AND/OR EFFECTIVELY CONDUCT INSPECTIONS OR INVESTIGATIONS, THE INFORMATION WOULD BE PROVIDED ONLY TO THE APPROPRIATE BOARD ON AN EX PARTE BASIS FOR THAT BOARD'S IN CAMERA CONSIDERATION. THE INFORMATION/ALLEGATION WILL NOT BE PROVIDED TO THE APPLICANT/LICENSEE OR ANY OTHER PARTY TO THE PROCEEDING, UNTIL IT IS DETERMINED BY THE STAFF OR THE OFFICE OF INVESTIGATIONS THAT THE INFORMATION CAN BE DISCLOSED OR THE BOARD DETERMINES THAT WITHHOLDING IS NOT JUSTIFIED (A RULING WHICH IS SUBJECT TO APPEAL). HOWEVER, NRC HAS CHARACTERIZED THESE CONFIDENTIAL ALLEGATIONS AND SENT THE CHARACTERIZED ALLEGATION TO THE LICENSEE/APPLICANT, AS WELL AS THE OTHER PARTIES TO THE PROCEEDINGS.

QUESTION 13. OF THE 704 ALLEGATIONS FILED IN THE ALLEGATION TRACKING SYSTEM (ATS), HOW MANY SPECIFICALLY HAVE BEEN FILED: (I) WITHIN 60 DAYS, AND (II) WITHIN 30 DAYS PRIOR TO A CRITICAL LICENSE DECISION? PLEASE PROVIDE THE ABOVE INFORMATION ON A PLANT-BY-PLANT BASIS.

ANSWER.

AS OF MARCH 23, 1984 THE ALLEGATION TRACKING SYSTEM CONTAINED 862 ENTRIES THAT IDENTIFIED INDIVIDUAL OR MULTIPLE ALLEGATIONS. THE FOLLOWING PAGE SHOWS ON A PLANT-BY-PLANT BASIS THE NUMBER OF ALLEGATIONS FILED WITHIN 60 DAYS AND THEN WITHIN 30 DAYS OF A CRITICAL LICENSE DECISION:

PLANT	DATE OF LICENSING DECISION	ALLEGATIONS FILED WITHIN 60 DAYS	ALLEGATIONS FILED WITHIN 30 DAYS
LASALLE 2	10/15/83(S)	-	-
	09/30/83(S)	-	-
	11/16/83(S)	-	-
	11/18/83(S)	-	-
	11/28/83(S)	-	1
	12/15/83(S)	-	-
	12/16/83(A)LP	-	-
	03/23/84(A)FP	6	22
WNPPS 2	09/30/83(S)	-	-
	11/25/83(S)	-	-
	12/09/83(S)	-	1
	12/15/83(S)	-	-
	12/20/83(A)LP	-	-
	30/30/84(S)FP	-	-
DIABLO CANYON	11/15/83(S)	7	6
	03/26/83(S)	11*	9**
WATERFORD	04/30/84(S)	4	1
		28	40

KEY: LP - LOW POWER
FP - FULL POWER
(S) - SCHEDULED
(A) - ACTUAL

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* MULTIPLE ALLEGATIONS ARE ASSOCIATED WITH THESE ENTRIES WHICH WERE RECEIVED PRIOR TO 60 DAYS BEFORE LICENSE BUT HAVE HAD AN IMPACT ON THE LICENSING DECISION JUST BY THEIR NUMBERS (I.E., 219 ALLEGATIONS CONCERNING DIABLO CANYON).

** OF THESE ALLEGATIONS, THREE ARE GAP DOCUMENTS RECEIVED BY THE STAFF. THE DOCUMENTS ARE UNDERGOING PRELIMINARY STAFF REVIEW, AND CONTAIN APPROXIMATELY 315 ALLEGATIONS.

The following plants had or have critical license decision dates as shown but no allegations were filed as of March 23, 1984 within 60 days or 30 days of these dates:

Plant	Date
McGuire 2	03/03/83(A)
St. Lucie 2	03/23/83(S) 04/16/83(A)LP 06/10/83(A)FP
San Onofre 3	03/14/83(S) 09/16/83(A)LP
Callaway 1	04/23/84(S)
Grand Gulf 1	05/23/84(S)
Catawba 1	05/23/84(S)
Susquehanna 2	03/23/84(S) 03/26/84(S)

QUESTION 14. UNDER CURRENT NRC PROCEDURES, IS THE 30 DAYS REQUIRED PRIOR TO THE CONSTRUCTION COMPLETION DATE FOR THE REPORTING TO NRR FROM ALL ACTION OFFICES SUFFICIENT TIME TO EVALUATE THE SIGNIFICANCE OF ALL OUTSTANDING ALLEGATIONS?

ANSWER.

THE CURRENT PROCEDURE IS INTENDED TO REQUIRE THAT ACTION OFFICES COMPLETE THE EVALUATION OF EACH ALLEGATION AS SOON AS PRACTICABLE BUT NO LATER THAN 30 DAYS PRIOR TO THE CONSTRUCTION COMPLETION DATE. THUS, IN GENERAL, THE FINAL 30 DAYS IS AVAILABLE (AND USUALLY SUFFICIENT) FOR DETERMINING THE COLLECTIVE SIGNIFICANCE OF ALL ALLEGATIONS (THAT BY THAT TIME HAVE BEEN RESOLVED). HOWEVER, SOME SPECIAL CASES, E.G., DIABLO CANYON, HAVE REQUIRED SIGNIFICANT ADDITIONAL STAFF RESOURCES TO EVALUATE OUTSTANDING ALLEGATIONS, MANY OF WHICH WERE RECEIVED LATE IN THE REVIEW PERIOD.

QUESTION 15. OF THE 704 ALLEGATIONS, PLEASE INDICATE HOW MANY HAVE BEEN FILED BY THE FOLLOWING GROUPS: LICENSEE EMPLOYEES, CONTRACTOR EMPLOYEES, FORMER EMPLOYEES OF THOSE ORGANIZATIONS, THE GOVERNMENT ACCOUNTABILITY PROJECT, OTHER PUBLIC INTEREST GROUPS, AND OTHERS.

ANSWER.

AS OF MARCH 23, 1984 THERE WERE 862 SEPARATE ENTRIES IN THE ALLEGATION TRACKING SYSTEM. THE FOLLOWING ARE THE SOURCES OF THESE ALLEGATIONS:

LICENSEE EMPLOYEES	123
CONTRACTOR EMPLOYEES	255
FORMER LICENSEE OR CONTRACTOR EMPLOYEES	118
GOVERNMENT ACCOUNTABILITY PROJECT*	35
OTHER PUBLIC INTEREST GROUPS	30
OTHERS**	301

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* DOCUMENTS FROM GAP CONTAIN MULTIPLE ALLEGATIONS (ONE DOCUMENT CONTAINED 219 ON DIABLO CANYON; THREE DOCUMENTS RECENTLY RECEIVED AND UNDER PRELIMINARY STAFF REVIEW CONTAIN APPROXIMATELY 315 ALLEGATIONS.) RECEIVED BY GAP FROM SEVERAL SOURCES, I.E., FORMER LICENSEE EMPLOYEES, CONTRACTOR EMPLOYEES, ETC.

** THIS CATEGORY INCLUDES NEWS MEDIA, PRIVATE CITIZENS, ALLEGER'S ATTORNEYS, ALLEGERS WHO WISH ANONYMITY, NRC EMPLOYEES, FBI, STATE OFFICIALS, NRC CONTRACTORS, ETC.

QUESTION 16. OF THE "LAST-MINUTE" ALLEGATIONS THAT ARE FILED, HOW MANY HAVE BEEN FILED BY THE FOLLOWING GROUPS: LICENSEE EMPLOYEES, CONTRACTOR EMPLOYEES, FORMER EMPLOYEES OF THESE GROUPS, THE GOVERNMENT ACCOUNTABILITY PROJECT, OTHER PUBLIC INTEREST GROUPS, AND OTHERS?

ANSWER.

THE FOLLOWING IS A BREAKDOWN OF THE SOURCES OF THE "LAST-MINUTE" ALLEGATIONS (Q13) FILED:

LICENSEE EMPLOYEES	1
CONTRACTOR EMPLOYEES	8
FORMER EMPLOYEES OF THESE GROUPS	26
GAP	17*
OTHER PUBLIC INTEREST GROUPS	1
OTHERS**	13

*MULTIPLE ALLEGATIONS (IN EXCESS OF 600 SEPARATE CONCERNS) ASSOCIATED WITH THESE. SOURCES ARE FROM FORMER LICENSEE OR CONTRACTOR EMPLOYEES.

**THIS CATEGORY INCLUDES NEWS MEDIA, ALLEGER'S ATTORNEYS, ALLEGERS REQUESTING ANONYMITY, PRIVATE CITIZENS, ETC.

QUESTION 17. OF THE ALLEGATIONS THAT ARE ULTIMATELY DISPOSED OF AS "INSIGNIFICANT OR UNSUBSTANTIATED," HOW MANY OF THESE "INSIGNIFICANT OR UNSUBSTANTIATED" ALLEGATIONS HAVE BEEN FILED BY THE FOLLOWING GROUPS: LICENSEE EMPLOYEES, CONTRACTOR EMPLOYEES, FORMER EMPLOYEES OF THESE ORGANIZATIONS, GOVERNMENT ACCOUNTABILITY PROJECT, OTHER PUBLIC INTEREST GROUPS, AND OTHERS?

ANSWER.

NRC RECORDS AT THE PRESENT TIME DO NOT PROVIDE RAPID OR EASY RETRIEVAL OF THIS TYPE OF INFORMATION. CHANGES TO THE COMPUTERIZED TRACKING SYSTEM FOR ALLEGATIONS ARE BEING CONTEMPLATED THAT WOULD PROVIDE SUCH INFORMATION FOR FUTURE ALLEGATION SUBMITTALS. IT CAN BE STATED QUALITATIVELY, HOWEVER, THAT THE INCIDENCE OF SIGNIFICANT OR SUBSTANTIATED ALLEGATIONS SEEMS TO BE RELATED TO THE DEGREE TO WHICH THE ALLEGER IS INVOLVED IN THE SPECIFIC ACTIVITY OF CONCERN (I.E., PERSONNEL OF THE PLANT PROVIDE MOST OF THE ALLEGATIONS OF THIS TYPE, WHILE MEMBERS OF THE PUBLIC PROVIDE THE LEAST.)

QUESTION 18. PLEASE PROVIDE AN ANALYSIS, INCLUDING THE RELEVANT HISTORICAL DOCUMENTATION, OF YOUR UNDERSTANDING OF THE ENVIRONMENTAL PROTECTION AGENCY'S AUTHORITY TO PROMULGATE "GENERALLY APPLICABLE ENVIRONMENTAL STANDARDS" FOR NRC-LICENSED FACILITIES. WHAT LIMITS ARE THERE ON EPA'S AUTHORITY? IS THE NRC SATISFIED THAT THIS DIVISION OF REGULATORY RESPONSIBILITY IS EFFECTIVE, EFFICIENT, AND WORKABLE?

ANSWER.

THE COMMISSION BELIEVES THAT EPA'S AUTHORITY TO ISSUE "GENERALLY APPLICABLE ENVIRONMENTAL STANDARDS" FOR NRC-LICENSED FACILITIES WAS ORIGINALLY BASED ON THREE DOCUMENTS: REORGANIZATION PLAN NO. 3 OF 1970, WHICH TRANSFERRED TO THE NEWLY-ESTABLISHED EPA THOSE FUNCTIONS OF THE ATOMIC ENERGY COMMISSION (AEC) THAT CONSISTED OF ESTABLISHING GENERALLY APPLICABLE ENVIRONMENTAL STANDARDS; THE AEC-EPA MEMORANDUM OF UNDERSTANDING OF SEPTEMBER 11, 1973 (38 FR 24936), WHICH COMMITTED AEC (NOW NRC) TO ASSURE THAT ROUTINE RADIOACTIVE DISCHARGES FROM LICENSED FACILITIES MEET EPA STANDARDS; AND THE MEMORANDUM OF DECEMBER 7, 1973 BY ROY L. ASH THEN DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET (OMB), WHICH CLARIFIED EPA'S AND AEC'S RESPECTIVE JURISDICTIONS.

UNDER PARAGRAPH 6 OF THE REORGANIZATION PLAN (84 STAT. 2086, 2088), "STANDARDS" WERE DEFINED AS LIMITS ON RADIATION EXPOSURES OR CONCENTRATIONS OR QUANTITIES OF RADIOACTIVE MATERIAL IN THE

ENVIRONMENT OUTSIDE THE BOUNDARIES OF LOCATIONS UNDER THE CONTROL OF PERSONS USING THE MATERIAL.

UNDER OTHER LEGISLATION SUCH AS THE CLEAN AIR ACT AND THE SOLID WASTE DISPOSAL ACT, HOWEVER, EPA HAS AUTHORITY TO REGULATE SOME OF THE WASTE MANAGEMENT PRACTICES AND EFFLUENT RELEASES OF NRC LICENSEES. THESE ACTS DO NOT RESTRICT EPA TO SETTING STANDARDS APPLICABLE OUTSIDE THE BOUNDARIES OF NRC-LICENSED FACILITIES, BUT ALLOW EPA TO ACT WITHIN THE FULL SCOPE OF THE ENVIRONMENTAL LEGISLATION TO THE EXTENT THAT IT IS APPLICABLE TO NRC LICENSEES.

NRC AND EPA ARE CURRENTLY WORKING TO ESTABLISH AN INTERAGENCY RELATIONSHIP THAT WILL PROVIDE THE MOST EFFECTIVE, EFFICIENT, AND WORKABLE DIVISION OF REGULATORY JURISDICTION WITHIN OUR RESPECTIVE EXISTING STATUTORY MANDATES.

COMMISSIONER ROBERTS ADDS:

COMMISSIONER ROBERTS WOULD HAVE ANSWERED THIS QUESTION AS FOLLOWS:

THE COMMISSION'S UNDERSTANDING OF EPA'S AUTHORITY TO ISSUE "GENERALLY APPLICABLE ENVIRONMENTAL STANDARDS" FOR NRC-LICENSED FACILITIES IS BASED UPON THE REORGANIZATION PLAN NO. 3 OF 1970, THE AEC-EPA MEMORANDUM OF UNDERSTANDING, PUBLISHED SEPTEMBER 11, 1973 (38 FR 24936), AND A MEMORANDUM OF DECEMBER 7, 1973 BY MR. ROY L. ASH, DIRECTOR OF OMB.

Reorganization Plan No. 3, 1970, transferred to the newly established EPA those functions of the AEC that consisted of establishing generally applicable environmental standards.

"Standards" were defined as limits on radiation exposures or concentrations or quantities of radioactive material in the environment outside the boundaries of locations under the control of persons using the material. See paragraph 6 Reorganization Plan No. 3 of 1970, 84 stat. 2086, 2088.

The AEC-EPA Memorandum of Understanding committed AEC, (now NRC) to assure that facilities are operated so that routine radioactive discharges meet the EPA standards. This understanding of the respective functions of EPA and NRC has been demonstrated in 40 CFR 190 where EPA set uranium fuel cycle standards for the environment in terms of annual dose equivalent to individuals and concentrations of radioactive material outside the facility boundary. The NRC has by both issuance of orders and rulemaking implemented the standards at specific sites. See e.g., 10 CFR 20.105(c).

Under Reorganization Plan No. 3 of 1970 the Commission believes that EPA is limited to setting standards applicable outside the boundary of the site, and that the standards should be expressed in terms of limits on exposures and concentrations of radioactive material. 40 CFR 190 is an excellent example of how EPA should exercise its authority, and if that pattern is adhered to, the

DIVISION OF REGULATORY AUTHORITY IS FOR MOST CASES EFFECTIVE, EFFICIENT AND WORKABLE.

EPA, HOWEVER, POSSESSES AUTHORITY UNDER OTHER LEGISLATION, SUCH AS THE CLEAN AIR ACT, AND THE SOLID WASTE DISPOSAL ACT, TO REGULATE SOME OF THE WASTE MANAGEMENT PRACTICES AND EFFLUENT RELEASES OF NRC LICENSEES. THESE ACTS DO NOT RESTRICT EPA TO STANDARD SETTING OUTSIDE THE BOUNDARIES OF THE FACILITY, BUT ALLOW EPA TO ACT WITHIN THE FULL SCOPE OF THE ENVIRONMENTAL LEGISLATION TO THE EXTENT THAT IT IS APPLICABLE TO NRC LICENSEES. TO PROMOTE A MORE EFFECTIVE, EFFICIENT, AND WORKABLE DIVISION OF REGULATORY JURISDICTION, WE WOULD PREFER THE PATTERN ESTABLISHED UNDER 40 CFR 190.

QUESTION 19. IN TESTIMONY AT THE HEARING, THE COMMISSION INDICATED THAT, IN THE NEAR FUTURE, CHAIRMAN PALLADINO WOULD BE MEETING WITH ADMINISTRATOR RUCKELSHAUS IN AN EFFORT TO ADDRESS THE CONCERNS OF THE NRC OVER THE EPA-NRC RELATIONSHIP. HAS THIS MEETING TAKEN PLACE? IF SO, PLEASE SUMMARIZE THE RESULTS.

ANSWER.

CHAIRMAN PALLADINO AND ADMINISTRATOR RUCKELSHAUS HAVE NOT YET MET TO DISCUSS THE ISSUES WHICH ARE CREATING INTERFACE PROBLEMS BETWEEN EPA AND NRC IN THE REGULATION OF RADIOACTIVE WASTES. SUBSEQUENT TO THE HEARING, MEETINGS HAVE BEEN HELD BETWEEN STAFF AT VARIOUS MANAGEMENT LEVELS WITHIN EPA AND NRC (INCLUDING THE EXECUTIVE DIRECTOR FOR OPERATIONS OF NRC AND ASSISTANT ADMINISTRATORS OF EPA) TO CLARIFY THOSE ISSUES WHICH SHOULD BE ADDRESSED BY THE CHAIRMAN AND THE ADMINISTRATOR AT THEIR MEETING. PREPARATORY ACTIVITIES ARE STILL UNDERWAY AT THIS TIME BUT NRC STAFF ANTICIPATES THE RUCKELSHAUS/PALLADINO MEETING SHOULD BE SCHEDULED IN THE NEAR FUTURE.

QUESTION 20. HAS EPA, IN YOUR JUDGMENT, GONE BEYOND THE BOUNDS OF ITS AUTHORITY TO PROMULGATE GENERALLY APPLICABLE ENVIRONMENTAL STANDARDS FOR THE RADIOLOGICAL AND NONRADIOLOGICAL RISKS ASSOCIATED WITH URANIUM MILL TAILINGS, AS REQUIRED BY SECTION 275 OF THE ATOMIC ENERGY ACT?

ANSWER.

THE COMMISSION HAS NOT YET REACHED A CONCLUSION ON THIS MATTER. HOWEVER, OUR STAFF IS MEETING WITH EPA STAFF IN ORDER TO ASCERTAIN THE ACTUAL EXTENT, IF ANY, TO WHICH EPA HAS EXCEEDED ITS AUTHORITY IN THIS AREA.

QUESTION 21. PLEASE PROVIDE A DETAILED ANALYSIS OF THE EPA REGULATIONS FOR URANIUM MILL TAILINGS, PUBLISHED ON OCTOBER 7, 1983 AT 48 FEDERAL REGISTER 45926, DESCRIBING ALL INSTANCES IN WHICH THESE REGULATIONS IMPOSE CONDITIONS THAT: (1) INVOLVE MEASURES TO BE TAKEN WITHIN THE SITE BOUNDARY; (2) SET SPECIFIC TECHNOLOGY, ENGINEERING METHODS, OR PROCEDURES TO BE EMPLOYED (INCLUDING EXCLUSION AREA RESTRICTIONS ON SITE BOUNDARIES; SURVEILLANCE REQUIREMENTS; DETAILED ENGINEERING METHODS SUCH AS LININGS FOR TAILINGS PONDS, DEPTH AND TYPE OF TAILINGS COVER; POPULATION LIMITATION; OR INSTITUTIONAL ARRANGEMENTS); (3) REQUIRE EPA TO BECOME INVOLVED IN SITE-SPECIFIC DECISIONMAKING.

ANSWER.

ALTHOUGH NRC STAFF HAS PROVIDED THE FOLLOWING ANALYSIS RESPONDING TO THIS QUESTION, THE COMMISSION HAS WITHHELD ACTION ON THIS ANALYSIS PENDING THE OUTCOME OF DISCUSSIONS WITH EPA.

CONCERNING THE FIRST PART OF YOUR QUESTION, VIRTUALLY THE WHOLE OF THE OCTOBER 7, 1983 STANDARD INVOLVES MEASURES TO BE TAKEN WITHIN THE SITE BOUNDARY. THE REQUIREMENTS FOR GROUNDWATER PROTECTION DURING OPERATIONS, AND FOR WASTE CONTAINMENT AND RADON CONTROL AFTER CLOSURE MUST ALL BE ACHIEVED VIA CONTROL MEASURES TAKEN ON SITE.

CONCERNING THE SECOND PART OF YOUR QUESTION, THE IMPOSITION OF THE RCRA LINER DESIGN REQUIREMENT FOR SURFACE IMPOUNDMENTS (40 CFR 264.221) MAKES LICENSING A NEW IMPOUNDMENT OR AN EXPANSION OF AN EXISTING IMPOUNDMENT WITHOUT A SYNTHETIC LINER VERY UNLIKELY. TO AVOID THE NECESSITY FOR A MAN-MADE LINER, IT MUST BE DEMONSTRATED THAT HAZARDOUS CONSTITUENTS IN THE IMPOUNDED WASTE WILL NEVER REACH GROUNDWATER. THIS IS EXTREMELY DIFFICULT. OTHER REQUIREMENTS UNDER §264.221 INCLUDE DESIGN OF IMPOUNDMENTS TO PREVENT OVERTOPPING, OVERFILLING, AND HUMAN ERROR, AND TO PREVENT FAILURE EVEN IF THE LINER LEAKS.

REGARDING THE THIRD PART OF YOUR QUESTION, WITH RESPECT TO THE GROUNDWATER PROTECTION STANDARD, EPA MUST CONCUR IN SITE-SPECIFIC ALTERNATE CONCENTRATION LIMITS IF ANALYSIS OF THE MOVEMENTS OF CONTAMINANTS IN GROUNDWATER SHOWS THAT THERE WILL BE DEGRADATION BEYOND THE SITE BOUNDARY OR MORE THAN 500 METERS FROM THE IMPOUNDMENT, WHICHEVER IS CLOSER. ALSO, EPA MUST CONCUR IN THE EXEMPTION OF ANY LICENSEE FROM ANY HAZARDOUS CONSTITUENT.

THE ABOVE CASES ARE CLEAR-CUT. THERE ARE OTHER INSTANCES IN RCRA REGULATIONS REFERENCED BY 40 CFR 190 WHERE IT IS NOT CLEAR AS TO WHAT WILL BE REQUIRED OF NRC LICENSEES. FOR EXAMPLE, IT IS NOT CLEAR HOW MUCH OF 40 CFR 264 SECTIONS 95 THROUGH 99 ARE LEGALLY REQUIRED OF NRC LICENSEES.

QUESTION 22. WHAT CONCERNS, IF ANY, DOES THE COMMISSION HAVE WITH EPA'S PROPOSED GENERALLY APPLICABLE ENVIRONMENTAL STANDARD FOR HIGH-LEVEL WASTE DISPOSAL? PLEASE EXPLAIN.

ANSWER. THE EPA STAFF IS WORKING TO FINALIZE THE STANDARD WHICH WE UNDERSTAND IS ESTIMATED NOW TO OCCUR IN THE SUMMER OF THIS YEAR. THE NRC STAFF HAS BEEN WORKING INFORMALLY WITH EPA IN AN ATTEMPT TO RESOLVE DIFFERENCES BETWEEN AGENCY POSITIONS:

1. NUMERICAL PROBABILITIES - THE DRAFT STANDARD PUBLISHED FOR COMMENT WOULD REQUIRE AN APPLICANT TO PERFORM A PROBABILISTIC RISK ANALYSIS FOR A PROPOSED REPOSITORY, AND WOULD REQUIRE THE NRC TO USE THE NUMERICAL RESULTS OF THIS ANALYSIS AS THE PRIMARY BASIS FOR DETERMINING REPOSITORY SAFETY. THE DRAFT STANDARD WOULD REQUIRE NUMERICAL ESTIMATES OF BOTH THE PROBABILITIES AND CONSEQUENCES OF EVENTS WITH LIKELIHOODS AS LOW AS 10^{-8}/YEAR. BECAUSE OF THE INHERENT DIFFICULTY IN PREDICTING SOME EVENTS (SUCH AS HUMAN INTRUSION) AND THE LARGE UNCERTAINTIES IN PREDICTING MOST GEOLOGIC EVENTS AND PROCESSES, THIS STANDARD WOULD BE DIFFICULT TO IMPLEMENT WITHOUT EXPLICIT RECOGNITION IN THE STANDARD THAT CONSIDERABLE JUDGEMENT AND USE OF IMPRECISE NUMERICAL ESTIMATES WILL BE REQUIRED. THE EPA AND NRC STAFFS HAVE BEEN WORKING ON LANGUAGE WHICH WOULD EXPLICITLY RECOGNIZE THE NEED FOR QUALITATIVE JUDGEMENTS AS WELL AS NUMERICAL PROBABILITY ESTIMATES.

2. ASSURANCE AND PROCEDURAL REQUIREMENTS - THESE SECTIONS OF THE PROPOSED STANDARD DEAL WITH MEANS FOR IMPLEMENTATION OF THE STANDARD, AND ARE CONSIDERED TO BE OUTSIDE THE AREA OF EPA'S JURISDICTION. IN ADDITION TO THE JURISDICTIONAL ISSUE, A FEW OF THESE REQUIREMENTS ARE INCONSISTANT WITH THE PROVISIONS OF PART 60.

3. DEFINITION OF "HIGH-LEVEL WASTES" - THE PROPOSED STANDARD CONTAINS A NUMERICAL DEFINITION OF THE TERM "HIGH-LEVEL WASTES." THE NUCLEAR WASTE POLICY ACT PROVIDED AUTHORITY FOR DEFINING THIS TERM TO THE NRC. WE UNDERSTAND THAT EPA WILL REVISE THE PROPOSED DEFINITION TO CONFORM TO THE NWPA.

QUESTION 23. DOES THE COMMISSION SUPPORT EPA'S EFFORTS TO PROMULGATE A GENERALLY APPLICABLE ENVIRONMENTAL STANDARD FOR LOW-LEVEL WASTE DISPOSAL? PLEASE EXPLAIN.

ANSWER.

NRC DOES NOT SUPPORT PROMULGATION OF A LOW-LEVEL WASTE ENVIRONMENTAL STANDARD BY EPA. GIVEN THE DETAILED REQUIREMENTS IN 10 CFR PART 61 FOR THE PROTECTION OF PUBLIC HEALTH AND SAFETY FROM THE RADIOLOGICAL RISKS ASSOCIATED WITH LOW-LEVEL WASTE DISPOSAL, WE BELIEVE AN EPA STANDARD IS UNNECESSARY. IN DEVELOPING THE PART 61 LICENSING REQUIREMENTS, NRC STAFF CONSULTED EXTENSIVELY WITH EPA STAFF TO ENSURE THAT THE EXPOSURES EXPECTED FROM MEETING THESE REQUIREMENTS AT LOW-LEVEL WASTE DISPOSAL FACILITIES WOULD BE CONSISTENT WITH EPA'S ANTICIPATED STANDARDS. IN THE MARCH 18, 1982 AGENCY COMMENT LETTER TO THE COMMISSION ON THE PROPOSED PART 61 REGULATION AND DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS), EPA STATED THAT "THE 25 MILLIREM PER YEAR IS IN THE CORRECT RANGE OF VALUES IF, AS THE NRC INDICATES, THAT RANGE INCLUDES 1 TO 25 MILLIREM PER YEAR. WE WERE ASSURED BY NRC ANALYSES AND THEIR OWN STATEMENTS IN THE DEIS THAT THEY SHOULD BE ABLE TO

ESTABLISH A REGULATORY LIMIT COMPATIBLE WITH ANY FUTURE EPA STANDARD ESTABLISHED USING ALARA PRINCIPLES."

IF EPA STANDARDS WILL IN FACT BE COMPATIBLE WITH NRC REGULATIONS, WE QUESTION THE NEED FOR THE STANDARDS. THEIR CONTINUING DEVELOPMENT SERVES TO KEEP ALIVE THE POSSIBILITY OF HAVING TO DEAL WITH CONFLICTING OR INCONSISTENT REGULATORY REQUIREMENTS. WE DOUBT THAT THIS REGULATORY UNCERTAINTY CAN HAVE ANYTHING BUT A NEGATIVE EFFECT ON SITE SELECTION, THE DEVELOPMENT OF INTERSTATE COMPACTS, AND THE STATES' ASSUMPTION OF RESPONSIBILITIES FOR DISPOSAL UNDER THE LOW-LEVEL RADIOACTIVE WASTE POLICY ACT OF 1980.

QUESTION 24. PLEASE SUMMARIZE THE STATUS OF ALL DISCUSSIONS WITH EPA TO RESOLVE NRC'S CONCERNS OVER THE EPA-NRC RELATIONSHIP THROUGH MEMORANDA OF UNDERSTANDING.

ANSWER.

THE NUCLEAR REGULATORY COMMISSION AND THE ENVIRONMENTAL PROTECTION AGENCY HAVE BEEN INVOLVED IN EXTENSIVE DISCUSSIONS AT ALL LEVELS OF MANAGEMENT CONCERNING THE EPA-NRC RELATIONSHIP. IN ADDITION TO NRC-EPA DISCUSSIONS AT THE LEVEL OF PROGRAM MANAGEMENT, CHAIRMAN PALLADINO MET WITH EPA ADMINISTRATOR RUCKELSHAUS ON MAY 21, 1984 TO DISCUSS THIS RELATIONSHIP. NRC AND EPA STAFFS ARE CURRENTLY CONTINUING WORK ON A MEMORANDUM OF UNDERSTANDING IN THE URANIUM MILL TAILINGS PROGRAM AREA.

COMMISSIONER ROBERTS ADDS:

COMMISSIONER ROBERTS WOULD HAVE ANSWERED THE QUESTION AS FOLLOWS:

THE NUCLEAR REGULATORY COMMISSION AND THE ENVIRONMENTAL PROTECTION AGENCY RECENTLY HAVE BEEN INVOLVED IN DISCUSSIONS RELATED TO FORMULATING OR REVISING MEMORANDA OF UNDERSTANDING ON THE FOLLOWING TOPICS:

1. LOW-LEVEL WASTES

NRC AND EPA HAVE BEEN INVOLVED IN DISCUSSIONS TO RESOLVE THE POTENTIAL OVERLAP IN THEIR REGULATORY AUTHORITIES REGARDING THE DISPOSAL OF LOW-LEVEL WASTES SINCE THE SUMMER OF 1982. AS A

RESULT OF THESE DISCUSSIONS, EPA STAFF PREPARED A DRAFT MEMORANDUM OF UNDERSTANDING (MOU). NRC COMMENTS WERE PROVIDED TO EPA.

FROM THE BEGINNING, THE DRAFT MOU PROPOSED THAT THE WASTES DISPOSED OF AT LICENSED COMMERCIAL LOW-LEVEL WASTE SITES WOULD CONTINUE TO BE REGULATED ONLY UNDER THE ATOMIC ENERGY ACT BY NRC OR AGREEMENT STATES. WE ARE NOW UNCERTAIN, HOWEVER, WHETHER THIS APPROACH WILL BE LEGALLY ACCEPTABLE. THERE ARE BASIC ISSUES ARISING FROM DIFFERENCES IN REQUIREMENTS BETWEEN EPA STATUTES AND NRC WASTE DISPOSAL REGULATIONS WHICH MAY NOT BE IMMEDIATELY RECONCILABLE THROUGH AN MOU. THIS MATTER IS BEING ADDRESSED IN THE ONGOING DISCUSSIONS BETWEEN NRC AND EPA MANAGEMENT.

2. URANIUM MILL TAILINGS

IN HOPES OF WORKING OUT A PROCEDURAL AGREEMENT WITH EPA ON THE REGULATION OF URANIUM MILL TAILINGS DISPOSAL, NRC STAFF HAS BEEN ENGAGED IN ONGOING DISCUSSIONS WITH EPA CONCERNING THE APPLICATION OF RESOURCE CONSERVATION AND RECOVERY ACT (RCRA) REQUIREMENTS IN THE IMPLEMENTATION OF THE FINAL EPA STANDARD FOR MILL TAILINGS REGULATION. EPA AND NRC ARE CURRENTLY CONSIDERING THE DEVELOPMENT OF A PROGRAMMATIC AGREEMENT TO CLARIFY THE RESPONSIBILITIES OF EACH AGENCY IN MILL TAILINGS REGULATION. CONCEPTS TO BE INCLUDED IN SUCH AN AGREEMENT ARE UNDER DISCUSSION.

IN 1981, NRC AND EPA STAFFS INITIATED EFFORTS TO NEGOTIATE A MEMORANDUM OF UNDERSTANDING TO CLARIFY EACH AGENCY'S

RESPONSIBILITY FOR THE CONTROL OF SITES CONTAMINATED WITH RADIOACTIVE MATERIALS. THE NEGOTIATIONS WERE TERMINATED IN 1983 AFTER A NUMBER OF ISSUES WERE IDENTIFIED WHERE AGENCY AGREEMENT COULD NOT BE REACHED. AT THAT TIME, NRC INFORMED EPA THAT WE WOULD REFER TO EPA ANY CONTAMINATED SITE WHICH COMES TO NRC'S ATTENTION WHERE NRC BELIEVES IT CANNOT REQUIRE A FORMER ATOMIC ENERGY COMMISSION OR NRC LICENSEE TO TAKE APPROPRIATE REMEDIAL ACTIONS.

3. IMPLEMENTATION OF THE CLEAN AIR ACT

THE 1977 AMENDMENTS TO THE CLEAN AIR ACT REQUIRED EPA AND NRC TO ENTER INTO A MEMORANDUM OF UNDERSTANDING ON EPA RADIONUCLIDE EMISSION STANDARDS UNDER THE CLEAN AIR ACT. AN INITIAL MOU WAS AGREED TO AND PUBLISED IN 1980. CURRENTLY, THE AGENCIES HAVE BEEN NEGOTIATING A REVISED SECOND MOU TO DEAL PRIMARILY WITH IMPLEMENTATION OF THE EPA LIMITS WHEN THEY ARE FINALIZED. WE ARE CURRENTLY RE-EXAMINING THE NRC ROLE IN IMPLEMENTING THESE STANDARDS. IMPLEMENTATION BY NRC, AS ORGINALLY ENVISIONED IN THE FIRST MOU ON THE CLEAN AIR ACT, MAY INCREASE RATHER THAN DECREASE DUPLICATION OF EFFORT. THIS IS DUE TO THE CONCURRENT AUTHORITIES OF EPA AND EPA-DELEGATED STATES TO ALSO IMPLEMENT THESE STANDARDS. THESE COMPLICATIONS ARE NOT RESOLVABLE BY A MOU AS EPA CANNOT DELEGATE AUTHORITY TO NRC NOR WITHHOLD IT FROM STATES WITH EPA-APPROVED IMPLEMENTATION PLANS.

4. OVERALL MOU

EPA AND NRC ARE DISCUSSING THE POSSIBILITY OF ESTABLISHING AN UPDATED MOU WHICH WOULD REPLACE PREVIOUS OUTDATED MOU'S AND WOULD ADDRESS THE ENTIRE INTERFACE BETWEEN THE TWO AGENCIES. THE PURPOSE OF THIS MOU WOULD BE TO ESTABLISH PROCEDURES FOR INTERACTIONS BETWEEN THE AGENCIES AT ALL LEVELS SO FUTURE REGULATORY ACTIONS CAN BE SYNCHRONIZED AND BETTER COORDINATED.

IN ADDITION TO NRC-EPA DISCUSSIONS AT THE LEVEL OF PROGRAM MANAGEMENT, CHAIRMAN PALLADINO MET WITH EPA ADMINISTRATOR RUCKELSHAUS ON MAY 21, 1984 TO DISCUSS THIS RELATIONSHIP. NRC AND EPA STAFFS ARE CURRENTLY CONTINUING WORK ON A MEMORANDUM OF UNDERSTANDING IN THE URANIUM MILL TAILINGS PROGRAM AREA.

QUESTION 25. EPA HAS DESIGNATED CERTAIN SITES COVERED BY THE URANIUM MILL TAILINGS RADIATION CONTROL ACT FOR REMEDIAL RESPONSE UNDER THE SUPERFUND PROGRAM. ARE THE REQUIREMENTS OF UMTRCA AND SUPERFUND COMPATIBLE? IF NOT, WHAT ARE THE DIFFERENCES? DOES THE COMMISSION AGREE WITH EPA'S STATEMENT AT 48 FR 40662 THAT "WHEN A FACILITY IS LICENSED BY A STATE PURSUANT TO AN NRC DELEGATION, THE NRC HAS NO AUTHORITY, SHORT OF WITHDRAWING THE DELEGATION ITSELF, TO ENFORCE CONDITIONS OF THE LICENSE OR DETERMINE THAT NEW CONDITIONS ARE NECESSARY"?

ANSWER.

THE REQUIREMENTS OF UMTRCA AND SUPERFUND ARE COMPATIBLE. UMTRCA DEALS PRIMARILY WITH THE OPERATION, CLOSURE, AND TRANSFER TO THE UNITED STATES OF URANIUM MILL TAILINGS DISPOSAL SITES. SUPERFUND DEALS WITH THE CLEAN UP OF ENVIRONMENTALLY DAMAGING RELEASES OF HAZARDOUS MATERIAL, INCLUDING RADIONUCLIDES. IF A SITE IS PROPERLY CLOSED UNDER UMTRCA THERE WOULD PROBABLY BE NO NEED TO EVER INVOKE SUPERFUND AUTHORITY, BARRING AN UNFORESEEN CATASTROPHIC EVENT THAT RESULTED IN A RELEASE OF TAILINGS FROM THE CLOSED DISPOSAL SITE TO THE

ENVIRONMENT. IF SUCH AN EVENT IS AN ACT OF GOD THERE IS NO LIABILITY FOR DAMAGES UNDER SUPERFUND (SEC. 107(B)(1)).

THE EPA STATEMENT AT 48 FR 40662 IS FUNDAMENTALLY CORRECT. UNDER SECTION 274 OF THE ATOMIC ENERGY ACT THE COMMISSION RELINQUISHES JURISDICTION OVER NUCLEAR MATERIALS TO THE AGREEMENT STATE. THEREAFTER THE STATE IS RESPONSIBLE FOR LICENSING AND REGULATING THE RELINQUISHED MATERIALS. THE PROCEDURE IN SECTION 274J FOR RESTORING JURISDICTION TO THE FEDERAL GOVERNMENT REQUIRES TERMINATION OR SUSPENSION OF ALL OR PART OF THE AGREEMENT. THE TERMINATION OR SUSPENSION REQUIRES A FINDING THAT IT IS NECESSARY TO PROTECT THE PUBLIC HEALTH AND SAFETY AND THAT THE STATE HAS NOT ADEQUATELY DISCHARGED ITS LICENSING AND REGULATORY RESPONSIBILITIES. TERMINATION ALSO REQUIRES A HEARING.

QUESTION 26. FOR THOSE SITES LISTED BY EPA FOR REMEDIAL RESPONSE UNDER SUPERFUND THAT ARE LOCATED IN NRC AGREEMENT STATES, IS THE NRC SATISFIED THAT THE AGREEMENT STATE IS ADEQUATELY ADDRESSING ANY PROBLEMS THAT MAY ARISE AT SUCH SITES?

ANSWER.

YES. PURSUANT TO SECTION 274, THE NRC HAS RELINQUISHED REGULATORY AUTHORITY FOR THESE MATERIALS TO THE AGREEMENT STATES. UNDER THE SECTION 274 AGREEMENTS, NRC DOES NOT REVIEW THE ACTIONS TAKEN BY THE STATES ON A CASE-BY-CASE BASIS. INSTEAD, NRC REVIEWS THEIR OVERALL REGULATORY PROGRAMS ON AN EIGHTEEN MONTH FREQUENCY. BASED ON THESE PROGRAM REVIEWS AND OUR CONTINUING COMMUNICATIONS WITH THE STATES, WE BELIEVE THEY ARE TAKING APPROPRIATE ACTION, WITH RESPECT TO THESE SITES FOR RADIOLOGICAL CONTROL.

QUESTION 27. Does UMTRCA, in the Commission's judgment, provide sufficient authority to ensure that uranium mill tailings sites are adequately regulated? Does UMTRCA provide the Commission sufficient authority to direct that a licensee undertake the necessary remedial actions? What steps can be taken to ensure that a licensee will not abandon a uranium mill tailings site without providing for the necessary containment and stabilization at that site?

ANSWER.

Yes. In the Commission's judgment, UMTRCA provides the Commission sufficient authority to ensure that uranium mill tailings sites are adequately regulated and that licensees undertake the necessary remedial actions. Appendix A of NRC's 10 CFR 40 regulations for by-product material set forth steps in the form of financial surety requirements to ensure that a uranium recovery licensee will provide for necessary site reclamation and closure.

QUESTION 28. WHAT IS THE STATUS OF THE COMMISSION'S REVIEW OF ITS CURRENT EMERGENCY PLANNING REGULATIONS? ARE ANY CHANGES ANTICIPATED? IF SO, PLEASE DESCRIBE THE STEPS BEING CONSIDERED. WHEN WILL THIS INITIATIVE BE SUBMITTED TO THE COMMISSION BY STAFF?

ANSWER

A. THE STAFF IS CURRENTLY REVIEWING ALL THE EMERGENCY PREPAREDNESS REGULATIONS AS THEY RELATE TO NUCLEAR POWER PLANTS.

B. THE STAFF IS CONSIDERING THE FOLLOWING CHANGES:

1. USE OF A GRADED RESPONSE CAPABILITY WITHIN THE 10-MILE EPZ,

2. ELIMINATING THE UNUSUAL EVENT EMERGENCY CLASSIFICATION,

3. CLARIFICATION OF THE TIME TO CORRECT DEFICIENCIES (4-MONTH CLOCK),

4. DETAILS OF EXERCISE EVALUATIONS, AS WELL AS THE INCORPORATION OF APPENDIX E INTO PART 50.

C. THE STAFF ANTICIPATES THE PROPOSAL WILL BE SUBMITTED TO THE EDO FOR COMMISSION CONSIDERATION BY MAY 1984.

QUESTION 29. DOES THE COMMISSION FEEL THAT ADDITIONAL GUIDANCE WOULD BE USEFUL IN IMPLEMENTING THE "SHOLLY" PROVISION? IF SO, PLEASE DESCRIBE THOSE SPECIFIC AREAS IN WHICH SUCH GUIDANCE IS NECESSARY.

ANSWER.

THE COMMISSION DOES NOT BELIEVE THAT ADDITIONAL GUIDANCE IS NECESSARILY NEEDED AT THIS TIME. THE COMMISSION PUBLISHED ITS INTERIM "SHOLLY" RULES IN RESPONSE TO THE LEGISLATION ON APRIL 6, 1983, EFFECTIVE MAY 6, 1983. BECAUSE THESE PROCEDURES WERE CONSIDERABLY DIFFERENT FROM PAST PRACTICES, IT TOOK SOME TIME FOR THE NEW PROCEDURES TO BE FULLY IMPLEMENTED. HOWEVER, THESE PROCEDURES ARE WORKING EFFECTIVELY NOW. THE COMMISSION IS WORKING ON A FINAL "SHOLLY" RULE AT THIS TIME.

COMMISSIONER GILINSKY ADDS:

IN VIEW OF THE STANCE TAKEN BY THE NRC STAFF, AND SUPPORTED BY TWO COMMISSIONERS, ON THE TMI-1 STEAM GENERATOR TUBE REPAIR, IT IS CLEAR THAT ADDITIONAL CONGRESSIONAL GUIDANCE IS NEEDED ON THE MEANING OF "NO SIGNIFICANT HAZARDS CONSIDERATIONS."

COMMISSIONER ASSELSTINE ADDS:

COMMISSIONER ASSELSTINE BELIEVES THAT ADDITIONAL GUIDANCE FROM CONGRESS WOULD BE USEFUL.

ON THE SUBJECT OF THE COMMISSION'S REVIEW OF THE NRC STAFF'S NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION FOR THE TMI-1

STEAM GENERATOR REPAIRS, THE COMMISSION IS NOW DEADLOCKED, WITH TWO COMMISSIONERS CONCLUDING THAT THE STAFF'S PROPOSED DETERMINATION IS INCONSISTENT WITH THE SHOLLY AMENDMENT, AND TWO COMMISSIONERS CONCLUDING THAT THE STAFF'S DETERMINATION IS APPROPRIATE. THE FIFTH COMMISSIONER HAS DECIDED THAT A COMMISSION DECISION ON THE APPROPRIATENESS OF THE STAFF'S DETERMINATION IS NOT NECESSARY AT THIS TIME. THE CENTRAL QUESTION IS WHETHER THE STAFF'S IMPLEMENTATION OF THE COMMISSION'S SHOLLY REGULATIONS IS CONSISTENT WITH THE STATUTE AND ITS LEGISLATIVE HISTORY. IN VIEW OF THE FACT THAT THE NRC STAFF IS CONTINUING TO APPLY ITS INTERPRETATION OF THE SHOLLY REGULATIONS IN OTHER CASES AND THE COMMISSION IS UNABLE TO PROVIDE GUIDANCE TO THE STAFF ON THE APPROPRIATENESS OF THE STAFF'S INTERPRETATION, THE COMMITTEE MAY WANT TO CONSIDER THE NEED FOR ADDITIONAL GUIDANCE TO THE COMMISSION, AS PART OF ACTION ON THE PENDING NRC AUTHORIZATION BILL, ON THE INTENDED SCOPE OF THE SHOLLY AMENDMENT.

QUESTION 30. WHAT IS THE STATUS OF THE COMMISSION'S CONSIDERATION OF THE "FINANCIAL QUALIFICATIONS" RULE, IN LIGHT OF THE RECENT DECISION BY THE U.S. COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT? WHAT OPTIONS ARE UNDER CONSIDERATION? WHEN DOES THE COMMISSION EXPECT TO ADDRESS THIS ISSUE?

ANSWER.

THE COMMISSION HAS PUBLISHED IN THE FEDERAL REGISTER A STATEMENT OF POLICY ADDRESSING THE EFFECTS OF, AND THE COMMISSION'S RESPONSE TO, THE COURT'S OPINION. A COPY OF THAT STATEMENT IS ATTACHED FOR YOUR INFORMATION.

ON APRIL 2, 1984, THE COMMISSION ISSUED A NEW PROPOSED RULE TO REMEDY THE DEFECTS THE COURT FOUND IN THE MARCH 31, 1982 RULE. THE COMMISSION PETITIONED THE COURT TO STAY ITS MANDATE PENDING COMPLETION OF AN ADEQUATE RESPONSE TO THE COURT'S DECISION. THE COURT DENIED THE PETITION AND ISSUED ITS MANDATE ON APRIL 16, 1984. THE COMMISSION WILL BE ISSUING A REVISED POLICY STATEMENT SHORTLY.

Nuclear Regulatory Commission

STATEMENT OF POLICY

On February 7, 1984, the U.S. Court of Appeals for the District of Columbia Circuit granted a petition by the New England Coalition on Nuclear Pollution (NECNP) which challenged the Commission's rule eliminating financial qualification review requirements for electric utilities. New England Coalition on Nuclear Pollution v. NRC, No. 82-1581 (D.C. Cir. Feb. 7, 1984). The court found that the rule was not adequately supported by its accompanying statement of basis and purpose, and remanded it to the agency.

In response to this decision the Commission intends to conduct an expedited financial qualification rulemaking to address the problems which the court perceived in the Commission's present rule. The Commission understands from the court's order that the mandate will issue no earlier than 45 days from the date of the court's decision, i.e., not before March 23, 1984. Until then, the present rule remains formally valid. Therefore, the Commission directs its Atomic Safety and

Licensing Board and Atomic Safety and Licensing Appeal Panel to continue to treat the rule as valid. The Commission expects to complete an adequate response to the D.C. Circuit's decision before the court issues its mandate.

Commissioner Asselstine abstains.

For the Commission*

JOHN C. HOYLE
Assistant Secretary
of the Commission

Dated at Washington, DC
this 27th day of February, 1984

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*Commissioner Gilinsky was not present when this Statement of Policy was approved but had previously indicated his approval.

QUESTION 31. PLEASE PROVIDE, IN DETAIL, A DESCRIPTION OF THE CURRENT STATUS OF THE LICENSING PROCEEDING FOR THE GRAND GULF FACILITY, INCLUDING THE RECENT EVALUATION OF THE LICENSEE'S TECHNICAL SPECIFICATION AND SURVEILLANCE PROCEDURES. IS THE COMMISSION SATISFIED WITH THE MANNER IN WHICH THIS APPLICATION HAS BEEN HANDLED? IF NOT, WHAT STEPS (I) BY THE NRC STAFF, AND (II) BY THE APPLICANT, SHOULD HAVE BEEN TAKEN TO AVOID THESE PROBLEMS?

ANSWER.

CONSTRUCTION OF THE GRAND GULF FACILITY IS COMPLETED. FULL POWER LICENSING IS AWAITING RESOLUTION OF THE FOLLOWING ISSUES:

(1) RELIABILITY OF THE ONSITE EMERGENCY ELECTRICAL POWER SUPPLY, (THIS ISSUE IS DUE TO CONCERNS OVER THE RELIABILITY OF THE TRANSAMERICAL DELAVAL INCORPORATED (TDI) DIESEL GENERATORS).

(2) ASSURANCE THAT THE TECHNICAL SPECIFICATIONS ARE IN CONFORMANCE WITH THE FINAL SAFETY ANALYSIS REPORT (FSAR), SAFETY EVALUATION REPORT (SER) AND THE AS-BUILT PLANT.

IN JUNE 1982, AN OPERATING LICENSE (RESTRICTED TO 5% OF FULL POWER) WAS ISSUED TO MISSISSIPPI POWER AND LIGHT (MPL), THE LICENSEE FOR GRAND GULF NUCLEAR STATION UNIT 1.

SINCE THAT TIME, A CRANKSHAFT FAILURE OF A TDI DIESEL GENERATOR AT ANOTHER SITE HAS LED NRC STAFF TO FOCUS ADDITIONAL ATTENTION TO THE MANUFACTURING AND PERFORMANCE HISTORY OF THESE DIESEL GENERATORS. A LARGE NUMBER OF PROBLEM AREAS, INCLUDING CONCERNS OF THE DESIGN, MANUFACTURING AND QUALITY ASSURANCE OF TDI, HAVE BEEN REVEALED.

AS A RESULT, A TDI OWNERS GROUP HAS BEEN FORMED AND THEY HAVE PROVIDED THE STAFF WITH A PROGRAM TO RESOLVE THIS ISSUE. ACCEPTABLE REQUALIFICATION OF THE ENGINES WOULD BE CONTINGENT UPON APPROVAL OF THE DETAILED PROGRAM PLAN AND ITS SUCCESSFUL COMPLETION. ON APRIL 18, 1984, THE STAFF MET WITH MP&L TO DISCUSS A TEST PROGRAM WHICH WOULD SATISFY STAFF CONCERNS REGARDING INTERIM OPERATION UNTIL THE OWNER'S GROUP PROGRAM IS COMPLETED.

MP&L HAS ALSO DESCRIBED AN ON-SITE/OFF-SITE POWER ENHANCEMENT PROGRAM THAT IS CURRENTLY UNDER STAFF REVIEW. THIS PROGRAM CONSISTS OF DETAILED EVALUATIONS OF OFF-SITE POWER AND PLANT PERFORMANCE UNDER A LOSS OF AC POWER EVENT, INSTALLATION OF GAS TURBINES AS A TEMPORARY MEASURE AND USE OF THE HIGH PRESSURE CORE SPRAY DIESEL GENERATOR (A GENERAL MOTORS PRODUCT).

IN ADDITION TO THE CONCERNS RAISED ABOUT THE TDI DIESEL GENERATORS, AN ABNORMAL NUMBER OF CHANGES HAVE BEEN REQUIRED to correct deficiencies in the Grand Gulf Technical Specifications. In October 1982, as part of the NRC Region II Inspection Audit Program, a specific inspection was performed to review the licensee utilization of the plant Technical Specifications (TS) and surveillance procedures. The staff identified substantial deficiencies in the surveillance program and certain discrepancies between the TS and the as-built condition of the plant. The NRC staff required the licensee to conduct a complete review of the plant surveillance procedures as required by the TS. This review was completed during the summer of 1983. The NRC staff subsequently reinspected to confirm that its requirements had been satisfied. The licensee was then authorized to continue its low-power testing program, which was completed in November 1983.

Subsequently, however, a number of additional errors and deficiencies in the Grand Gulf Technical Specifications were identified. As a result, the staff undertook several steps to identify the extent of the problem, its root causes and potential safety significance. The Office of Nuclear Reactor Regulation (NRR) contracted with Idaho National Engineering Laboratory (INEL) to conduct an audit of selected systems in the Grand Gulf Technical Specifications; the NRC Region II Office conducted an onsite inspection for the purpose of comparing the Technical Specifications (TS) to the installed plant hardware to determine a confidence level in the correctness of the TS, and the Director of NRR directed that a more detailed staff review of the Grand Gulf Technical Specifications be conducted.

MP&L ALSO ENGAGED IN ITS OWN PROGRAM TO REVIEW THE GRAND GULF TECHNICAL SPECIFICATIONS TO ASSURE THEIR ACCURACY AND ADEQUACY. EACH GRAND GULF TECHNICAL SPECIFICATION WAS REVIEWED TO VERIFY ITS CONSISTENCY WITH THE FSAR, THE SER AND THE AS-BUILT PLANT. THE REVIEW WAS FULLY DOCUMENTED TO SUPPORT THE ACCEPTABILITY OF EACH TECHNICAL SPECIFICATION SECTION. MP&L PRESENTED THE RESULTS OF THEIR REVIEW ON APRIL 4, 1984. THE STAFF REVIEWED MP&L'S PROGRAM, ITS IMPLEMENTATION AND ITS RESULTS. THE STAFF CONCLUDED THAT CERTAIN TS WERE (1) INCONSISTENT WITH THE AS-BUILT PLANT AND COULD THEREBY CREATE UNNECESSARY CONFUSION TO THE PLANT OPERATING STAFF OR OTHERWISE INCREASE THE RISK OF HUMAN ERROR, AND/OR (2) INCONSISTENT WITH THE SAFETY ANALYSES ASSOCIATED WITH THE BASIS FOR THE PLANT DESIGN SUCH THAT COMPLIANCE WITH THOSE TECHNICAL SPECIFICATIONS WOULD PERMIT OPERATION UNDER UNANALYZED CONDITIONS WITH REDUCED MARGINS OF SAFETY. THE UNCERTAINTIES RAISED BY THESE INCONSISTENCIES REQUIRED CHANGES TO THE TECHNICAL SPECIFICATIONS TO PREVENT THE POTENTIAL FOR UNDUE RISK TO THE PUBLIC FROM OPERATION OF THE FACILITY UP TO POWER LEVELS CURRENTLY AUTHORIZED. ACCORDINGLY, THE STAFF, BY ORDER, REQUIRED ALL CHANGES TO THE GRAND GULF TECHNICAL SPECIFICATIONS NECESSARY TO RESTORE THE MARGIN OF SAFETY CONSISTENT WITH OPERATION AT 5 PERCENT POWER. ADDITIONAL TECHNICAL SPECIFICATION CHANGES WILL BE REQUIRED TO SUPPORT A FULL POWER AMENDMENT. ON APRIL 22, 1984 THE PLANT WAS RETURNED TO CRITICALITY.

THE COMMISSION IS CONCERNED ABOUT THE PROBLEMS EXPERIENCED WITH THE SURVEILLANCE PROCEDURES AND TECHNICAL SPECIFICATIONS AT GRAND GULF. THE STAFF WAS REQUESTED TO SPECIFICALLY ADDRESS THESE MATTERS AT A COMMISSION MEETING ON MARCH 20, 1984. A COPY OF THE SLIDES USED AT THAT BRIEFING IS ATTACHED. AT THIS MEETING, THE STAFF PROVIDED A DISCUSSION OF THE HISTORY AND ITS VIEWS OF THE "LESSONS LEARNED" FROM THIS EFFORT. THE STAFF ALSO PRESENTED A SERIES OF PROPOSED CORRECTIVE ACTIONS WHICH INCLUDED A SHORT-TERM PROGRAM FOR GRAND GULF AND OTHER NEAR-TERM PROJECTS AND A LONG-TERM PROGRAM FOR CORRECTING GENERIC PROBLEMS IN THE TECHNICAL SPECIFICATION DEVELOPMENT PROCESS. THE COMMISSION WILL CLOSELY MONITOR THESE EFFORTS TO ENSURE THAT THEY ARE EFFECTIVE IN PREVENTING THE RECURRENCE OF SIMILAR PROBLEMS.

ENCLOSURE:
NRC STAFF SLIDES
MARCH 20, 1984 COMMISSION BRIEFING

PHASES OF TECHNICAL SPECIFICATION DEVELOPMENT

- PHASE I
  - PLANT SPECIFIC TS PROPOSED BY APPLICANT (10 CFR 50.36)
  - POINT OF DEPARTURE IS STS (PUBLICALLY AVAILABLE NUREGS)
  - TIME FRAME 12 TO 18 MONTHS TO OL ISSUANCE

PHASE II
  - STAFF REVIEW OF PROPOSED TS AND INTERACTION WITH APPLICANT
  - MEETINGS AND DISCUSSIONS TO RESOLVE DIFFERENCES

- PHASE III
  - PROOF AND REVIEW
  - REVIEW BY APPLICANT AND STAFF
  - APPENDIX A TECH SPECS FOR OL

CHRONOLOGY OF GRAND GULF TECHNICAL SPECIFICATION DEVELOPMENT

- PHASE I - BWR/5, MKII STS SUBMITTAL USED AS POINT OF DEPARTURE
  - APPLICANT SUBMITTED PROPOSED PLANT SPECIFIC TS JUNE 1980
- PHASE II - INITIAL STAFF REVIEW OF PROPOSED TS COMPLETED AUGUST 1980
  - MEETINGS AND DISCUSSIONS TO RESOLVE DIFFERENCES
- PHASE III - PROOF AND REVIEW ISSUED - JANUARY 1982
  - DIFFERENCES RESOLVED - MARCH/APRIL 1982
  - OL, INCLUDING APPENDIX A TECH SPECS, ISSUED - JUNE 1982

CONTRIBUTORS TO DEFICIENCIES IN GRAND GULF TECH SPECS

- FIRST BWR/6, MARK III PLANT
  - INDUSTRY
  - STAFF
    - STS FOR BWR/6, MARK III PLANT DEVELOPED CONCURRENTLY
- INFORMALITY AND INSUFFICIENT DISCIPLINE IN TS DEVELOPMENT AND REVIEW PROCESS
  - APPLICANT
  - STAFF
- FIRST NUCLEAR PLANT FOR UTILITY

CORRECTIVE ACTION - GENERAL

- MORE SENSITIVE TO FIRST OF A KIND PLANT TS
- MORE RIGOROUS APPROACH IN DISCIPLINE AND FORMALITY WITH UTILITY
  - FORMALIZE COMMUNICATIONS WITH UTILITY
  - TRANSMIT FINAL DRAFT TS TO UTILITY 30 DAYS PRIOR TO OL ISSUANCE
  - REQUEST CERTIFICATION OF ACCURACY OF TS
- MORE RIGOROUS APPROACH IN DISCIPLINE AND FORMALITY WITHIN STAFF
- MORE SENSITIVE TO NEW NUCLEAR UTILITY

SHORT-TERM CORRECTIVE ACTIONS

- TECHNICAL BRANCH REVERIFICATION OF GRAND GULF TS VS FSAR
- CONTRACTOR REVIEW OF SELECTED SYSTEMS IN TS FOR NTOLS
    - INEL REVIEW OF TS VS FSAR/SER
        - GRAND GULF 1
        - WNP-2
        - SUSQUEHANNA 2
        - LASALLE 2
- REGIONAL INSPECTIONS OF SELECTED SYSTEMS IN TS FOR NTOLS
    - REVIEW OF TS VS "AS-BUILT PLANT"
        - GRAND GULF 1
        - SUSQUEHANNA 2
        - LASALLE 2
- APPLICANTS REQUESTED TO CERTIFY ACCURACY OF TS PRIOR TO OL ISSUANCE
    - FINAL DRAFT TS TO APPLICANT 30 DAYS PRIOR TO OL ISSUANCE

LONG-TERM CORRECTIVE ACTIONS

- ISSUE GENERIC LETTER TO OL APPLICANTS AND LICENSEES
    - SENSITIZE TO NEED FOR INCREASED MANAGEMENT ATTENTION TO TS
    - INDICATE FINAL DRAFT TS WILL BE AVAILABLE 30 DAYS PRIOR TO OL ISSUANCE
    - INDICATE APPLICANTS TO CERTIFY ACCURACY OF TS PRIOR TO OL ISSUANCE
- ISSUE AND UPDATE STAFF GUIDANCE ON TS REVIEW PROCESS
    - DIVISION PROCEDURES
    - OFFICE LETTERS
    - SRP
    - MANUAL CHAPTER
- INTEGRATED REASSESSMENT OF TS PROGRAM TO CONSIDER
    - LESSONS LEARNED
    - NUREG-1024 RECOMMENDATIONS
    - TS RULE CHANGE IN PROCESS

ON-GOING PROGRAM FOR
TECHNICAL SPECIFICATION REVIEW
AT GRAND GULF 1

- TASK FORCE ORGANIZED
  - PROGRAM MANAGED BY MP&L, 38 REVIEWERS
  - GENERAL ELECTRIC (NSSS), 55 REVIEWER
  - BECHTEL (AE-CONSTRUCTOR), 42 REVIEWERS
- COMPLETE (100%) REVIEW (INCLUDING BASES)
- VERIFY CONSISTENCY OF TECH SPECS VERSUS AS-BUILT PLANT, FSAR AND SER
- COMPLETE DOCUMENTATION OF REVIEW
- PROGRAM SCHEDULE (*ANTICIPATED)
  - INITIATED - 3/2/84
  - BECHTEL REVIEW COMPLETED - 3/30/84*
  - GE REVIEW COMPLETED - 4/6/84*
  - MP&L CERTIFICATION - 4/9/84*

QUESTION 32. PLEASE PROVIDE A COPY OF THE OFFICE OF GENERAL COUNSEL'S RESPONSE TO CHAIRMAN PALLADINO'S AND COMMISSIONER ROBERTS' REQUEST FOR AN ANALYSIS OF THE EPA'S RULEMAKING RECORD FOR THE ACTIVE URANIUM MILL TAILINGS SITE GENERAL ENVIRONMENTAL STANDARDS AND A DISCUSSION OF THE BASES FOR CHALLENGING THE EPA REGULATIONS, IDENTIFYING THE OPTIONS FOR PURSUING SUCH A CHALLENGE. (SEE 12-1-83 MEMORANDUM TO HERZEL H. E. PLAINE, GENERAL COUNSEL, FROM SAMUEL J. CHILK, SECRETARY.)

ANSWER.

THE GENERAL COUNSEL IS CONCLUDING HIS CONSIDERATION OF THE MATTER AND WILL SHORTLY BE RESPONDING TO THE REQUEST.

QUESTION 33. PLEASE PROVIDE A PROJECTION OF NEW OPERATING LICENSES LIKELY TO BE ISSUED FOR POWER REACTORS DURING THE REMAINDER OF FY 1984, FY 1985 AND IN FY 1986.

ANSWER.

PAST EXPERIENCE WOULD INDICATE ABOUT SIX TO EIGHT OPERATING LICENSE DECISIONS ARE LIKELY TO BE ISSUED IN EACH OF FISCAL YEARS 1984, 1985 AND 1986. THUS FAR IN 1984, TWO OPERATING LICENSES HAVE BEEN ISSUED. THE PLANTS CURRENTLY PROJECTED BY THE APPLICANT TO COMPLETE CONSTRUCTION DURING FY 1984-FY 1986 ARE LISTED IN THE ATTACHED QUARTERLY REPORT DATED MAY 2, 1984.

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

CHAIRMAN

May 2, 1984

The Honorable Tom Bevill, Chairman
Subcommittee on Energy and Water
Development
Committee on Appropriations
United States House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This quarterly status report is in response to the direction given in House Report 97-850. The enclosed report is intended to cover the first quarter of 1984; however, because of the high level of licensing activities in April which impacted this report, we have delayed its submittal in order to incorporate this information. As a result, the data reported herein is current as of April 27, 1984. The total licensing delay projected in our report is seventeen months: two months for Shoreham, five months for Limerick, seven months for Comanche Peak, one month for Waterford and two months for Byron.

The estimated regulatory delays in this report do not reflect any additional potential impact from the schedules for FEMA findings on off-site emergency preparedness. Any additional potential delays, based on the staff's analysis of the schedules for the FEMA findings, are included in a report to the Senate Subcommittee on Nuclear Regulation, jointly transmitted by the NRC and FEMA. Also, not reflected in the estimated regulatory delays is the potential impact of the D. C. Circuit Court mandate of April 16, 1984 related to the NRC's review of applicants' financial qualifications. The additional time it will take to complete necessary reviews and the potential for further litigation of financial qualification issues at individual hearings could result in significant additional delays. Finally, the two months' delay projected for Shoreham is predicated on a decision authorizing low power operation in early June 1984. However, given recent actions by the courts and the Commission's order of April 30, 1984, which vacated the hearing schedule previously adopted for low power and established oral argument before the Commission on specified issues regarding low power operation, the early June 1984 date may be overly optimistic.

Commissioners Asselstine and Gilinsky note that this report is based on applicants' construction completion dates, which in most cases have proven to be overly optimistic. They add that the current NRC staff construction completion dates, which have proven to be more realistic, show only a very limited potential delay for two plants -- Waterford 3 with one month and Byron 1 with two months. Moreover, Commissioners Asselstine and Gilinsky note that in each of these cases the additional time is needed for the Boards to address outstanding safety issues for the plants. They do not believe that the time needed to address outstanding safety issues can properly be characterized as a "licensing delay."

The NRC licensing activity during the period of this report included the issuance of an operating license restricted to 5% of full power for Susquehanna Unit 2 on March 23, 1984, authorization of full-power operation for La Salle Unit 2 on March 23, 1984, authorization of full-power operation for WNP-2 on April 13, 1984 and authorization of low-power operation for Diablo Canyon Unit 1 on April 19, 1984. On January 13, 1984, the NRC's Atomic Safety and Licensing Board denied an application for an operating license for the Byron Nuclear Station.

Sincerely,

Nunzio J. Palladino

Nunzio J. Palladino
Chairman

Enclosure:
NRC Quarterly Status Report to
Congress

cc: The Honorable John T. Meyer

NRC QUARTERLY REPORT

LIMERICK

The schedule for ASLB hearing-related activities is as follows:

- The onsite emergency planning hearing began on April 23, 1984. The Board ruled on the admissibility of offsite emergency planning contentions on April 20, admitting twelve contentions.
- Testimony for the welding deficiencies/quality assurance contention was filed on April 16 to support the hearing beginning the week of May 7.
- Contentions on the environmental consequences of severe accidents were filed by LEA and by the City of Philadelphia in February 1984, seven of which were admitted in March 1984. The hearing will begin on May 29 on all but one of the contentions. The hearing on the contention concerning potential contamination of the City's water supplies will begin on June 19, 1984.

The FES for severe accidents was issued on April 6, 1984. The Licensing Board estimates a decision in January 1985. This overall schedule results in a licensing impact of five months based on the applicant's August 1, 1984 completion date.

Midland

All of the stop-work orders in effect were lifted by mid-February 1984. Activities of the Construction Completion Plan are being initiated by the applicant as allowed in the prerequisites in the Plan approved by the Commission on October 6, 1983.

In a press release and stockholders meeting on April 10, 1984, the applicant announced that the planned fuel load date of Unit 2 is now July 1986. Unit 1 (the process steam unit), continues to be in an indefinite status since the Dow Chemical pullout in July 1983. CPCo's discussions with the Michigan Public Services Commission and state officials are continuing regarding existing cash flow problems which could preclude continued construction of Unit 2.

Byron 1

On January 13, 1984, the Atomic Safety and Licensing Board issued its initial decision denying Commonwealth Edison's application for an operating license for the Byron Nuclear Station Unit 1. Commonwealth Edison appealed the decision on January 23, 1984. Oral arguments before the Appeal Board were completed on April 19, 1984.

The appeal could result in the Appeal Board (1) affirming the Licensing Board's denial of an operating license, (2) reversing the Licensing Board's decision and authorizing issuance of an operating license, or (3) ordering reopening of the evidentiary record. The Commission may review the Appeal Board's decision sua sponte or upon petition for review by a party. It is possible that Commonwealth could qualify for an operating license either through an outright reversal of the Licensing Board's quality assurance findings or through modification of the Licensing Board's quality assurance decision based on further evidentiary hearings. At this time, the Appeal Board estimates its decision will be issued in a few weeks. If the Appeal Board orders reopening of the evidentiary record and remands the case to the Licensing Board for further hearings, it is estimated that a decision could be issued in four months. Under these circumstances the staff estimates that there would be a two-month licensing delay.

Commonwealth Edison has stated that Byron 1 will be ready to load fuel by July 1, 1984.

Shoreham

On September 2, 1983, the ASLB issued a partial initial decision on all matters except off-site emergency planning and the emergency diesel generator contentions. On February 22, 1984, the licensing board denied an initial motion by the utility for a low-power license until the emergency diesel generator contentions have been completely litigated or an alternate basis for low-power operation has been approved by the Board. It is estimated that hearings on these diesel generator contentions would not start until late July 1984 based on the staff's estimate of June 1984 for issuance of an SER on the diesel generator review, and that a Board decision would not be expected before December 1984.

On March 20, 1984, the applicant filed with the Board a supplemental motion for a low-power operating license. The staff has reviewed the motion and published its findings in a supplemental safety evaluation report issued on April 19, 1984. The staff concluded that operation of Shoreham at power levels up to 5% of rated full power, without the availability of the permanently installed emergency diesel generators, presents no significant risk to the public health and safety. If the motion is granted by the Board, it would provide for a phased startup - Phase I: fuel load and precriticality testing; Phase II: cold criticality testing; Phase III: heatup and low power (approximately 1%) at rated pressure and temperature; and Phase IV: low-power testing up to 5% of rated power. A separate licensing board to hear and decide the supplemental motion for a low-power license was established on March 30, 1984. Oral arguments on this motion were heard at a conference of counsel on April 4, 1984 and a hearing was scheduled for April 24 - May 5, 1984. On April 25, 1984, a temporary restraining order was issued by the U.S. District Court for the District of Columbia barring further hearings on the applicant's supplemental motion for ten days or until a hearing can be held on the intervenor's motion for a preliminary injunction. The basis for the Court's decision was that the expedited schedule did not provide the intervenors sufficient time for preparation of their case. Prior to the court action, the staff had estimated a potential two-month licensing delay assuming a Board decision in early June. This delay could be longer depending upon the new hearing schedule to be established.

On April 30, 1984 the Commission issued an order which vacated the hearing schedule previously adopted for low power and established oral argument before the Commission on specified issues regarding low power operation. A copy of the Commission's order is attached.

Based on the applicant's indication that the plant is physically ready to load fuel at this time, an early June decision on the supplemental motion for a low-power operating license would represent a two month licensing delay for low-power authorization. However, an early June, 1984 decision date may be overly optimistic. Further licensing delays in full-power authorization are possible due to the outstanding contentions on off-site emergency planning and emergency diesel generators.

Catawba

The Catawba FES and SER were issued in January and February 1983, respectively. The ACRS Full Committee meeting was held on March 11, 1983. The ACRS letter was issued on March 15, 1983. Prehearing conferences were held on January 12-13, 1982, October 7-8, 1982, January 20, 1983, August 8, 1983 and September 12, 1983. There are four safety and environmental contentions, ten emergency planning contentions, and two recently admitted TDI diesel generator contentions.

To date, all admitted contentions except emergency planning and recently admitted contentions related to diesel generators have been heard. An ASLB partial initial decision on safety and environmental issues (excluding the TDI diesels and emergency planning issues) is currently expected in late May 1984.

In January 1984, the applicant raised the question of the emergency planning hearing schedule and suggested a mid-March 1984 date. The ASLB expressed the view that such a date was unattainable, and that it would not be prepared to hear emergency planning issues until it had issued its decision on the safety phase of the case. On this basis, an emergency planning decision would not appear likely until October-November 1984. However, on January 18, 1984, the applicant filed a motion to bifurcate the hearing and requested the appointment of a separate Board to rule on the emergency planning contentions. This motion was granted and a separate licensing board was established on February 27, 1984 to hear emergency planning contentions. Discovery on this issue has essentially been completed and the hearing is scheduled to start on May 1, 1984. An emergency planning decision is expected by August 1984, in time to avoid delay in full-power authorization for Catawba Unit 1.

On December 5, 1983, intervenors submitted an oral motion requesting admission of a three-part contention regarding the diesel generators. On February 17, 1984, the Board admitted conditionally the part of the intervenors' proposed contention on diesel generators dealing specifically with crankshaft design, and rejected the parts dealing with the vendor's QA program, and the operational history of the vendor's diesel generators. In an order issued on February 27, 1984, the Board admitted on its own motion a contention on certain diesel generator problems identified by the applicant in a recent board notification. Discovery on this issue was completed on April 4, 1984; however, additional discovery is possible. The hearing schedule has not yet been established with the result that this could cause a delay in low-power authorization. On April 11, 1984, the applicant filed a supplemental motion for a license to load fuel and conduct certain precritical testing activities prior to a decision on the diesel generator contentions. The applicant's schedule for fuel load is June 16,1984.

Diablo Canyon

During this last quarter, the NRC staff has continued its evaluation of over 200 allegations concerning the plant design, construction, quality assurance and management. This evaluation is being conducted by the Diablo Canyon Allegation Management Team (DCAMT), a team of approximately 40 NRC staff members and consultants formed specifically for this purpose. The results of the DCAMT's efforts were reported in supplementary safety evaluation reports on January 4, 1984 and March 19, 1984. The staff has concluded that none of the 200 allegations should preclude low-power operation of Unit 1, but that 16 of the allegations should be resolved prior to authorizing full-power operation.

The hearing for a full-power license for Units 1 and 2 on design quality assurance (QA) was completed on November 21, 1983. On March 20, 1984, the Atomic Safety and Licensing Appeal Board issued a decision resolving the issue on design QA in favor of the licensee with respect to Unit 1. The Appeal Board still has before it the appeal of the licensing board's August 1982 decision authorizing issuance of full-power license and has retained jurisdiction over the proceeding. Motions to reopen the record on construction QA and to augment the record on design QA are now before the Appeal Board.

On March 27-28, 1984, the NRC staff briefed the Commission on the resolution of allegations, including a differing staff opinion, design verification program issues, recent developments related to the seismic design basis, plant staffing and other licensing matters. The Commission decided at that meeting to defer a decision on low-power authorization pending further staff evaluation and consideration by the ACRS of the differing staff opinion on certain small and large bore piping, including quality assurance and control. The results of these further evaluations were presented to the Commission at a meeting on April 13, 1984, and the Commission approved authorization of low-power operation effective April 19, 1984.

Comanche Peak Unit 1

Comanche Peak has been in a heavily contested hearing for over two years. All but one contention have been dismissed. The remaining contention questions the ability of the applicant's Quality Assurance/Quality Control Program to prevent deficiencies in the design and construction of the plant. The Licensing Board has admitted many allegations of design and construction deficiencies into the hearing as relevant to this contention. At the request of the Licensing Board, the applicant initiated a program of design and testing to respond to engineering technical questions remaining outstanding in the hearing record. The applicant projects that Comanche Peak Unit 1 will be completed by September 1984, however, the Licensing Board's initial decision is not expected until April 1985. With this schedule, there would be a seven-month licensing delay for Comanche Peak Unit 1.

The staff has identified several critical path items in the licensing review and inspection activities which must be completed. Included will be the resolution of approximately 300 allegations and completion of the generic TDI diesel generator reliability review. Due to the number and complexity of issues remaining to be resolved before the NRC can make its licensing decisions, the NRC staff has implemented a special team approach to the Comanche Peak review. This approach will assure the overall coordination/integration of these issues to assure the issues are resolved on a schedule to satisfy hearing and licensing decision needs. The first phase of this effort, which is currently underway, involves the identification of all applicable issues, which is then followed by the preparation of a Program Plan for the resolution of the identified issues. A senior NRC manager has been dedicated to this team effort to assist in the overall management of these activities.

Waterford Unit 3

A hearing was held in conjunction with the OL application and the final ASLB decision was issued in May 1983. There is currently a motion before the

Appeal Board to reopen the hearings based on allegations concerning the adequacy of the common foundation basemat. An Appeal Board decision on this motion is expected in June 1984. Based on the applicant's estimate that the plant will be ready to load fuel in May there is a potential for a one-month licensing delay.

Due to the number and complexity of the remaining licensing and hearing issues, the number of open allegations and the amount of work yet to be completed in the NRC's routine inspection program, the NRC staff has implemented a special team approach to the Waterford 3 review. This approach will assure the overall coordination/integration of these issues to assure the issues are resolved on a schedule to satisfy hearing and licensing decision needs. The first phase of this effort, which is currently underway, involves the identification of all applicable issues, which is then followed by the preparation of a Program Plan for the resolution of the identified issues. A senior NRC manager has been dedicated to this team effort to assist in the overall management of these activities.

One aspect of this integrated program involves a special NRC inspection/evaluation team assembled at Waterford. This team is composed of approximately 35 staff members principally from the NRC Headquarters, NRC consultants, and other Regional Offices. Region IV personnel also assist in the effort. The team will be gathering information for the staff to use in its licensing decision. Areas that are being examined include the installation and testing of equipment as well as the quality assurance aspects of construction. Of specific concern are allegations received by the NRC staff of improper construction practices. The results of this team's review will be published in an NRC safety evaluation report. This document is expected to be issued in May. In that document, the NRC will describe the areas reviewed and the safety significance of any concern identified, and set forth any necessary corrective actions. All other special team reviews, if any, will be handled in a similar manner.

The NRC has received a number of allegations regarding improper practices during construction at the Waterford site. These allegations cover both technical and non-technical issues. The non-technical issues are being examined by the NRC's Office of Investigation. The applicant was asked to provide the following information on the technical issues:

(1) An evaluation of the validity of each of the specific issues identified, clearly stating the basis for their conclusion;
(2) The safety significance of each issue in view of their conclusion in item (1); and
(3) The generic implications on other systems or contractors for any item found to have merit.

The applicant provided their response to this request to the staff on April 27, 1984. This information is currently being evaluated.

The NRC has recently completed a CAT inspection at Waterford 3. The final CAT report is expected to be published in May 1984.

Licensing Tables

The present licensing schedule for all plants with pending OL applications is given in Table 1. Plants are listed chronologically according to construction completion dates. The estimated Commission Decision dates are based on the utility company estimates of construction completion. The Immediate Effectiveness Decision date reflects the Commission's schedule to reach a decision on whether to stay the effectiveness of the ASLB decision authorizing a license for full-power operation. For the plants with construction completed, the Commission Decision dates reflect the schedule for a Commission decision regarding a full-power license unless otherwise noted. For the other plants, the Commission decision dates are simply based on the applicant's construction completion dates and reflect the projected need date for NRC authorization of fuel loading and low-power operations. Operating licenses restricted to 5% power may be issued by the NRC staff without additional Commission consideration subsequent to a favorable Board decision.

The estimated regulatory delays and the target dates for Commission decision shown in Table 1 do not reflect any potential impact from the schedules for FEMA findings on off-site emergency preparedness. Any additional potential delays, based on the staff's analysis of the schedules for the FEMA findings, are included in a report to the Senate Subcommittee on Nuclear Regulation, jointly transmitted by the NRC and FEMA.

DIVISION OF LICENSING 3/31/84

Licensing Schedules for All Pending OL Applications
(Includes Schedules for Additional Units with Projected Construction Completion in CY 1983-1987)

			SER				SSER				Comm. Decision 1/		
Plant	Est Delay (Months)	Issue DES	Staff Technical Input to DL	Issue SER	ACRS Mtg	Issue FES	Staff Technical Input to DL	Issue 6/ SSER	Start of Hearing	ASLB Initial Decision	Eff.**	Comm. Dec.	Appl. Constr. Compl.
Grand Gulf 1 3/	0 2/	C	C	C	C	C	C	C	None	None	N/A	05/84* 2/	C
Diablo Canyon 1	0	C	C	C	C	C	C	C	C	- 4/	-	05/84* 4/	C
Susquehanna 2	0	C	C	C	C	C	C	C	C	C	C	05/84* 2/	C*
Byron 1	2 21/	C	C	C	C	C	C	C	C	21/	21/	09/84* 21/	7/84*
Watts Bar 1	0	C	C	C	C	C	C	C	None	None	N/A	06/84*	06/84*
Callaway 1	0	C	C	C	C	C	C	C	C	C	C*	05/84*	05/84*
Shoreham 1	2 7/	C	C	C	C	C	C	C	C	C 7/	- 7/	06/84* 7/	03/84* 7/
Palo Verde 1	0	C	C	C	C	C	C	C	C	C	C	03/85*	03/85* 15/
SUB-TOTAL	4												

* Indicates changes from last report in Decision or Construction Completion Date
** Commission decision on effectiveness of ASLB decision

DIVISION OF LICENSING 3/31/84

Licensing Schedules for All Pending OL Applications
(Includes Schedules for Additional Units with Projected Construction Completion in CY 1983-1987)

			SER				SSER				Comm. Decision 1/		
Plant	Est Delay (Months)	Issue DES	Staff Technical Input to DL	Issue SER	ACRS Mtg	Issue FES	Staff Technical Input to DL	Issue 6/ SSER	Start of Hearing	ASLB Initial Decision	Eff.**	Comm. Dec.	Appl. Constr. Compl.
Catawba 1	0	C	C	C	C	C	C	C	C	05/84 12/	06/84*	06/84*	06/84*
Waterford 3	1	C	C	C	C	C	C	C	C	C	- 20/	06/84*	05/84*
Fermi 2	0	C	C	C	C	C	C	C	C	C	C	09/84*	09/84*
Comanche Peak 1	7	C	C	C	C	C	C	C	C	04/85*	04/85*	04/85*	09/84*
Diablo Canyon 2	0 4/	C	C	C	C	C	C	C	C	- 4/	-	08/84 4/	08/84 4/
Wolf Creek 1	0	C	C	C	C	C	C	C	C	06/84	07/84	09/84*	09/84*
Limerick 1 3/	5	C	C	C	C	C	C	C	C	01/85 17/	01/85	01/85*	08/84 17/
Seabrook 1 3/	0	C	C	C	C	C	C	C	C	08/85*	09/85*	11/85*	12/85*
GESSAR II 8/ 9/	0	N/A	5/15/84	6/15/84	08/84	N/A	08/84	09/84	None	None	N/A	09/84 8/	N/A
Midland 2 18/	0	C	C	C	C	C	C	C	C	10/85	10/85	07/86*	07/86* 18/
Zimmer 1	N/S	N/S	N/S	N/S	N/S	N/S	N/S	N/S	N/S	N/S	N/S	N/S	N/S 10/
Perry 1 3/	0	C	C	C	C	C	C	C	C	06/84	07/84	11/84	12/84 26/
SUB-TOTAL	13												

* Indicates changes from last report in Decision or Construction Completion Date
** Commission decision on effectiveness of ASLB decision

DIVISION OF LICENSING 3/31/84

Licensing Schedules for All Pending OL Applications
(Includes Schedules for Additional Units with Projected Construction Completion in CY 1983-1987)

			SER				SSER				Comm. Decision 1/		
Plant	Est Delay (Months)	Issue DES	Staff Technical Input to DL	Issue SER	ACRS Mtg	Issue FES	Staff Technical Input to DL	Issue 6/ SSER	Start of Hearing	ASLB Initial Decision	Eff.**	Comm. Dec.	Appl. Constr. Compl.
Palo Verde 2	0	C	C	C	C	C	09/85	10/85	C	C 16/	C	11/85*	12/85* 15/
Midland 1	0 18/	C	C	C	C	C	05/87	06/87	C	10/85	10/85	06/87	02/85 18/
River Bend 1 22/	0	5/14/84	C	04/84	06/84	9/28/84	06/84	07/84	10/84	03/85	04/85	04/85	04/85
Braidwood 1	0	C	C	C	05/84	06/84	06/84	07/84	10/84	03/85	04/85	08/85*	08/85*
Byron 2	0	C	C	C	C	C	C	C	C	C	21/	10/85*	10/85*
Bellefonte 1 3/	0	04/86	06/86	02/87	03/87	10/86	05/87	07/87	None	None	N/A	10/87	10/87
Harris 1	0	C	C	C	C	C	04/84	04/84	09/84	05/85	05/85	05/85	06/85
Watts Bar 2	0	C	C	C	C	C	06/85	06/85	None	None	N/A	12/85*	12/85*
Millstone 3	0	4/17/84	5/15/84	7/16/84	8/15/84	11/16/84	10/12/84	11/15/84	None	None	N/A	11/85	11/85
Beaver Valley 2	0	7/27/84	7/27/84	9/28/84	10/84	12/31/84	11/84	12/84	None	None 25/	11/85	06/86*	06/86* 19/
Comanche Peak 2	0	C	C	C	C	C	10/01/84	11/01/84	C	07/84	07/84	01/86	01/86
SUB-TOTAL	0												

* Indicates changes from last report in Decision or Construction Completion Date
** Commission decision on effectiveness of ASLB decision

DIVISION OF LICENSING 3/31/84

Licensing Schedules for All Pending OL Applications
(Includes Schedules for Additional Units with Projected Construction Completion in CY 1983-1987)

			SER				SSER				Comm. Decision 1/		
Plant	Est Delay (Months)	Issue DES	Staff Technical Input to DL	Issue SER	ACRS Mtg	Issue FES	Staff Technical Input to DL	Issue 6/ SSER	Start of Hearing	ASLB Initial Decision	Eff.**	Comm. Dec.	Appl Constr. Compl.
Clinton 1	0	C	C	C	C	C	C	C	N/S 11/	09/85	10/85	12/85	01/86
Hope Creek	0	6/15/84	8/20/84	10/12/84	11/84	11/16/84	01/85	02/85	07/85	01/86	01/86	01/86	01/86
Nine Mile 2	0	7/20/84	10/10/84	12/10/84	1/10/85	2/15/85	1/10/85	02/85	None	None	02/86	02/86	02/86
Braidwood 2	0	C	C	C	05/84	06/84	05/86	06/86	10/84	03/85	04/85	08/86*	08/86*
Palo Verde 3	0	C	C	C	C	C	12/86	01/87	C	C 16/	C	03/87*	03/87* 15/
Marble Hill 1 3/	N/S 23/	N/S	N/S	N/S	N/S	N/S	N/S	N/S	N/S 24/	N/S	N/S	N/S	N/S
Vogtle 3/	0	9/26/84	4/01/85	6/01/85	07/85	3/26/85	8/01/85	9/01/85	N/S	N/S	N/S	09/86	09/86
Catawba 2	0	C	C	C	C	C	07/86	08/86	C	04/84	05/84	10/86	10/86
So. Texas 1 3/	0	09/85	11/85	12/85	01/86	02/86	01/86	01/86	06/86	11/86	12/86	12/86	12/86
WNP-3	0	C	6/05/84	8/09/84	9/20/84	4/06/84	11/06/84	12/13/84	05/85	11/85	12/85	06/87	06/87 13/
WNP-1 14/	N/S	N/S	N/S	N/S	N/S	N/S	N/S	N/S	N/S	N/S	N/S	N/S	N/S
TOTAL DELAY	17												

* Indicates changes from last report in Decision or Construction Completion Date
** Commission decision on effectiveness of ASLB decision

FOOTNOTES

1/ Licensing schedules and decision dates do not reflect additional potential delay from Emergency Preparedness Review. For plants with construction completed, the Commission decision dates shown are for full-power; however, initial licensing may proceed (restricting power to 5% of rated full power) based on a favorable ASLB decision (if applicable) and a preliminary design verification by the applicant and staff. Construction completion dates and Commission decision dates are based on the utility company estimate of construction completion.

2/ An operating license restricting operation to fuel loading and operation up to 5% power has been issued for these facilities. A Commission decision regarding operation above 5% power will be made on a schedule commensurate with the licensee's need for full-power authorization; therefore, no delay is projected.

3/ Additional unit is also under OL review. However, construction completion estimate is beyond 1987.

4/ The low-power license for Diablo Canyon Unit 1 was suspended by Commission Order on November 19, 1981. The design verification program has been completed; final plant modifications are being made. SER Supplements 18, 19 and 20 were issued in late 1983 in support of staff recommendations for a decision regarding reinstatement of low-power license. On November 8, 1983, the Commission reinstated the authority to load fuel and conduct cold system testing; on January 25, 1984, the Commission authorized Modes 4 and 3 for hot shutdown and hot standby, respectively. A status report on the staff evaluation of allegations was issued as SSER #21 on January 4, 1984. SSER #22, further addressing allegations, was issued in March 1984 in support of low-power authorization. An Appeal Board hearing on matters of design QA was held in November 1983. On March 20, 1984, the ASLAB issued a decision resolving the design QA issue in favor of the licensee subject to conditions for operation of the component cooling water system and further analysis for jet impingement inside containment. At a meeting on March 26-27, 1984, the Commission decided to defer a decision on low-power authorization pending further staff evaluation and consideration by the ACRS on a differing staff opinion on issues related to certain small and large bore piping. The results of these further evaluations were presented to the Commission at a meeting on April 13, 1984, and the Commission approved authorization of low-power operation effective April 19, 1984. The results of the design verification effort and the resulting modifications will be evaluated by the staff with respect to Unit 2 and an SER Supplement will be issued.

FOOTNOTES

5/ Heavily contested plants are provided a longer than normal hearing schedule (i.e., 12-17 months vs 11 months) from SSER to Commission decision date.

6/ Date shown for first units is for first SSER following ACRS meeting. Additional SSERs will be issued to close out remaining open items.

7/ On February 22, 1984, the ASLB admitted three new contentions regarding the adequacy of the emergency diesel generators (EDGs). The contentions allege that the EDGs are undersized and overrated, improperly designed and improperly manufactured. The Board did not set a date for the start of the litigation, but from the discovery schedule and based on the staff's estimate of June 1984 for completion of its review, it appears that litigation would not start until July 1984 and would likely be extensive. Hearings before a second ASLB on Emergency Planning commenced on December 6, 1983 and are continuing. There are more than 70 offsite emergency planning contentions. On March 20, 1984, the applicant filed a supplemental motion for a low-power operating license with the first Appeal Board. The applicant's construction completion date (March 1984) is for readiness to load fuel based on a phased startup as described in the applicant's supplemental motion for a low-power operating license. The delay of two months is predicated on a low power decision by early June, 1984.

8/ Severe Accident Design; BWR/6 Nuclear Island design. Commission decision may be needed on GESSAR II Severe Accident Design since it is a forward referencing design approval.

9/ The dates for applicant construction completion, DES issuance and FES issuance are not given for this application because it is a standardized design. Facilities that reference this design will supply this plant-specific information. The Commission decision date shown reflects the NRC staff-approval schedule for the FDA and not a Commission decision.

10/ By letter dated January 27, 1984, the applicant informed the NRC that construction of Zimmer had ceased and that attempts would be made to convert Zimmer to a coal-fired plant. The applicant stated that they would file with the ASLB for withdrawal of their application in the near future.

FOOTNOTES (Continued)

11/ A prehearing conference to consider schedule changes in light of the revised construction completion date was held on June 2, 1983. The parties agreed to a two-phase hearing with issues other than quality assurance and emergency planning to be held beginning in March 1984. However, this has been indefinitely deferred. The balance of the hearings are scheduled tentatively for July 1985.

12/ The projected ASLB decision date is for all admitted contentions with the exception of those related to emergency diesel generators and emergency preparedness.

13/ Staff review schedule is presently being revised in light of the new construction completion date.

14/ Application docketed; no schedule established.

15/ On March 9, 1984, the applicant announced the following changes in fuel load dates for Palo Verde: Unit 1 - from 5/84 to 1st quarter of 1985; Unit 2 - from 2/85 to 4th quarter of 1985; Unit 3 - from 5/86 to 1st quarter of 1987. The reasons given for the changes are the problems with the LPSI pumps, hot functional test problems and other deficiencies.

16/ By Order dated December 30, 1982, the Licensing Board re-opened the record on Palo Verde with respect to Units 2 and 3 only to consider issues related to salt deposition on surrounding lands.

17/ By letter dated December 27, 1983, the applicant reported an expected construction completion date of August 1, 1984. Due to the heavily contested nature of this proceeding, a decision by the Licensing Board on all issues is not expected before January 1985. This would result in a licensing impact of five months based on the applicant's August 1, 1984 completion date.

18/ On April 10, 1984, the applicant announced that the schedule for fuel load for Unit 2 is July 1986. The schedule for Unit 1 is still indefinite. The staff is using a June 1987 construction completion date for its resource planning purposes.

19/ On 4/4/84, the applicant issued a press release which announced that the fuel load date for Beaver Valley 2 has been rescheduled from 12/85 to 6/86. The applicant's licensing organization has been directed by its management to continue at the same level to make possible implementation of a recovery program in the future.

20/ Commission review is pending an Appeal Board decision on reopening the hearings.

FOOTNOTES (Continued)

21/ On January 13, 1984, the ASLB issued a final initial decision denying Commonwealth Edison's application for a operating license for the Byron Nuclear Station. The Board withheld authorization for an operating license because of inadequacies in the Byron quality assurance programs. The ASLB decision has been appealed. If the Appeal Board orders reopening of the evidentiary record, it is estimated that an ASLB decision could be issued in September 1984.

22/ On January 5, 1984, the applicant announced cancellation of River Bend Unit 2.

23/ By letter dated 1/18/84, the applicant informed the NRC that they have suspended construction on Marble Hill due to the company's inability to finance the project.

24/ By letter dated 12/22/83, the applicant's attorney suggested that the Marble Hill ASLB defer any further action on the Marble Hill proceeding.

25/ No contentions were accepted by the licensing board for litigation, and hearing proceeding was dismissed on January 27, 1984.

26/ CEI press release dated 2/22/84 announced a plant completion slippage to late 1985.

DOCKETED
USNRC

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'84 APR 30 P2:49

OFFICE OF SECRETARY
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BRANCH

Commissioners:

Nunzio J. Palladino, Chairman
Victor Gilinsky
Thomas M. Roberts
James K. Asselstine
Frederick M. Bernthal

SERVED APR 30 1984

In the Matter of)
)
LONG ISLAND LIGHTING COMPANY) Docket No. 50-322-OL-4
) (Low Power)
(Shoreham Nuclear Generating)
Plant, Unit 1))

ORDER

On April 25, 1984, the hearing of the Atomic Safety and Licensing Board conducting the proceedings on operation of the Shoreham plant at low power was enjoined by order of the United States District Court for the District of Columbia. The Commission has now reviewed the question of how the issues involved in that proceeding may most suitably be addressed, and has determined as follows:

1. The schedule adopted by the Atomic Safety and Licensing Board for the conduct of the Shoreham low power proceeding is hereby vacated.

2. The Commission will hold oral argument on May 7, 1984, at 9:30 a.m. in the Commission's hearing room at 1717 H Street, N.W., Washington, D.C., on the applicability of the General Design Criteria (in particular, GDC 17) to the proposal of the Long Island Lighting Company to operate the

Shoreham facility at low power. In particular, the oral arguments should address the following questions:

(1) The Board's Order states that if public protection at low power operation without the diesel generators required for full power operation is equivalent to (or greater than) the protection afforded to the public at full power operation with such approved generators, then LILCO's motion for low power authorization should be granted. In these circumstances, what justification is there for waiving the emergency preparedness requirements applicable to full power operation?

(2) What is the legal basis for holding that General Design Criterion 17 is not applicable for low power operation? Would this argument apply to other criteria?

(3) What would be the technical justification for authorizing low power operation without the onsite electric power system required by GDC 17? What would be the basis of any calculation or judgment that protection to the public at low power under these circumstances would be greater than or equal to public protection at full power?

3. The Commission intends to make a prompt decision on the applicability of the General Design Criteria to low power operation at Shoreham.

4. The Commission will allow a reasonable period of time after that decision for the parties to prepare themselves for any subsequent hearing which may be held.

5. In the event that such a hearing is held, the Commission will establish a reasonable schedule for prehearing activities and for the

hearing. Comments by the parties on schedules will be entertained at the May 7, 1984 oral argument.

6. Any written comments on the issues in this order must be in the Commission's hands by noon on Friday, May 4, 1984.

We recognize that this schedule calls for some expedition on the part of the parties. However, in view of the fact that the parties have already briefed and argued most or all of these matters before the Licensing Board, we believe that this schedule is not unduly burdensome.

This order replaces the unpublished order of which the parties were advised by telephone on April 26, 1984.

Commissioner Roberts dissents from this Order. His separate comments are attached.

It is so ORDERED.

UNITED STATES NUCLEAR REGULATORY COMMISSION

For the Commission

SAMUEL J. CHILK
Secretary of the Commission

Dated at Washington, D.C.
this 30th day of April, 1984.

April 30, 1984

DISSENTING VIEWS OF COMMISSIONER ROBERTS ON SHOREHAM

Having voted with a majority on April 23rd not to take the extraordinary action of stepping into the proceeding at this juncture merely to correct scheduling disagreements between the Licensing Board and certain of the parties that can be taken up on appeal if pressed at that stage, I am disinclined to alter my view simply because the U.S. District Court has issued, on perceived "Constitutional" grounds, a temporary restraining order. Unlike the present majority, I would await the Court's decision on a preliminary injunction before taking any additional action other than to issue the Order which the entire Commission approved on April 26th. However, the present majority (the former minority and two members of the former majority) after hearing a report from the General Counsel on the arguments before Judge Gesell decided to withdraw that order and issue the present order instead. One result of this action by the present majority was withdrawal by Commissioner Asselstine of the additional views that he had planned to issue with the Order that was approved on April 26th. I refuse to succumb to the pressures, both internal and external, which have resulted in this latest action by the majority.

QUESTION 34.	PLEASE PROVIDE A PROJECTION OF THE NUMBER OF NEW POWER REACTOR CONSTRUCTION PERMIT APPLICATIONS TO BE SUBMITTED PRIOR TO THE END OF FY '86.

ANSWER.

NO NEW CONSTRUCTION PERMIT APPLICATIONS ARE EXPECTED PRIOR TO THE END OF FY 1986.

QUESTION 35. IN HIS STATEMENT, CHAIRMAN PALLADINO DISCUSSES THE USEFULNESS OF A LICENSING REFORM BILL. DO ANY OF THE COMMISSIONERS HAVE ANY THOUGHTS ON THE LICENSING REFORM BILL I HAVE CIRCULATED.

ANSWER.

CHAIRMAN PALLADINO'S VIEWS:

LICENSING REFORM

ENACTMENT OF A LICENSING REFORM BILL ALONG THE LINES OF THAT PROPOSED LAST YEAR BY THE NRC COULD CONTRIBUTE MUCH NEEDED STABILITY TO THE NUCLEAR LICENSING PROCESS. WHILE LICENSING REFORM IS BY NO MEANS A CURE-ALL FOR THE PROBLEMS CONFRONTING NUCLEAR POWER IN THE U.S., IT WOULD BE USEFUL TO ESTABLISH NOW, BY LAW, A STABLE FRAMEWORK WITHIN WHICH FUTURE NUCLEAR INDUSTRY PLANNING CAN TAKE PLACE. SEVERAL FEATURES OF THE NRC BILL ARE KEY TO MEANINGFUL LICENSING REFORM:

- STANDARDIZED DESIGN. LEGISLATION WOULD BE HELPFUL IN PROVIDING THE STABILITY THAT WOULD ENCOURAGE THE SUBMISSION OF STANDARDIZED NUCLEAR POWER PLANT DESIGNS. THE GOAL IS THAT ESSENTIALLY COMPLETE DESIGNS COULD BE REVIEWED AND APPROVED BEFORE AN APPLICATION FOR A CONSTRUCTION PERMIT HAS BEEN FILED. IT IS IMPORTANT THAT APPROVAL OF SUCH A DESIGN BE VALID FOR A SUFFICIENTLY LONG TIME TO PROVIDE STABILITY. THAT TIME SHOULD BE

APPROXIMATELY TEN YEARS, WITH RENEWALS FROM FIVE TO TEN YEARS AT THE DISCRETION OF THE COMMISSION.

EARLY SITE REVIEW. LEGISLATION WOULD ALSO ENCOURAGE THE SUBMISSION OF PROSPECTIVE SITES FOR NUCLEAR POWER PLANTS THAT COULD BE APPROVED BEFORE AN APPLICATION FOR A CONSTRUCTION PERMIT IS FILED. APPROVAL OF SUCH A SITE SHOULD BE VALID FOR APPROXIMATELY TEN YEARS, WITH RENEWALS FROM FIVE TO TEN YEARS AT THE DISCRETION OF THE COMMISSION.

COMBINED CONSTRUCTION PERMIT AND OPERATING LICENSE. IN ORDER TO ENHANCE STABILITY BY REQUIRING THE PRESENTATION AND RESOLUTION OF AS MANY ISSUES AS POSSIBLE EARLY IN THE LICENSING PROCESS, LEGISLATION SHOULD AUTHORIZE ISSUANCE OF A COMBINED CONSTRUCTION PERMIT AND OPERATING LICENSE. IN PARTICULAR, A SECOND HEARING PRIOR TO COMMENCEMENT OF OPERATION SHOULD BE LIMITED TO ISSUES THAT WERE NOT AND COULD NOT HAVE BEEN CONSIDERED AND DECIDED AT EARLIER STAGES.

OTHER EXPLICIT AUTHORITIES. LEGISLATION SHOULD PROVIDE EXPLICIT AUTHORITY TO CONDUCT HYBRID HEARINGS, TO DELEGATE NEED FOR POWER DECISIONS TO THE STATES, AND TO CONSIDER ECONOMIC FACTORS, IN LICENSING AND REGULATORY DECISIONS.

COMMISSIONER GILINSKY'S VIEWS:

I THINK THAT THE THREE SUBSTANTIVE PROVISIONS OF THE BILL COULD IMPROVE THE LICENSING SYSTEM. HOWEVER, I REMAIN CONCERNED THAT ISSUING A DOCUMENT LABELED "CONSTRUCTION PERMIT AND OPERATING LICENSE" AT THE OUTSET OF CONSTRUCTION WOULD LEAD TO DILUTING THE REVIEW OF THE ADEQUACY OF CONSTRUCTION AND OF THE PLANT'S READINESS FOR OPERATION.

COMMISSIONER ROBERT'S VIEWS:

I CONTINUE TO SUPPORT THE GOAL OF REFORMING THE NRC'S LICENSING PROCESS SO THAT GREATER STABILITY, RATIONALITY, AND EFFICIENCY ARE ACHIEVED. THUS, I STRONGLY SUPPORTED THE LEGISLATION PROPOSED TO THE COMMISSION BY JIM TOURTELLOTTE, CHAIRMAN, REGULATORY REFORM TASK FORCE. THAT LEGISLATION, AS ORIGINALLY PROPOSED, PROVIDED FOR EARLY RESOLUTION OF VARIOUS LICENSING ISSUES, FOR A ONE-STEP LICENSING PROCESS, AND FOR A MORE RATIONAL AND STABLE PROCESS FOR DETERMINING THE NEED FOR "BACKFITS."

I HAVE REVIEWED THE LICENSING REFORM BILL YOU CIRCULATED AND I BELIEVE IT FALLS SHORT OF ACCOMPLISHING THE ABOVE STATED GOALS. I FIND IT QUITE BOTHERSOME THAT THE PROPOSED BILL DOES NOT INCLUDE A PROVISION ON BACKFIT AND, IN EFFECT, MANDATES A TWO-HEARING LICENSING PROCESS. A FEW SPECIFIC COMMENTS ARE PROVIDED BELOW:

1. SECTION 101 D, FOR EXAMPLE, BY CHANGING SHALL TO MAY AS IN, "... THE COMMISSION MAY ISSUE A SITE PERMIT ...", INSERTS

UNCERTAINTY INTO THE PROCESS RATHER THAN STABILIZING IT. THE PRESENT ATOMIC ENERGY ACT WORDING OF SHALL DENOTES THAT WHEN AN APPLICANT HAS DEMONSTRATED COMPLIANCE WITH NRC REGULATIONS AND HAS OBTAINED A POSITIVE FINDING BY A HEARING BOARD, THE PRESUMPTION IS FOR THE COMMISSION TO ISSUE THE LICENSE (EMPHASIS ADDED). SECTION 101 D ALSO AMENDS THE ATOMIC ENERGY ACT TO INCLUDE THE ENVIRONMENT. THIS INCLUSION COULD CONCEIVABLY BE INTERPRETED TO INCLUDE REQUIREMENTS THAT GO BEYOND NEPA.

2. SECTION 102 SETS THE PERIOD OF A LICENSE AND ITS RENEWAL TO FIVE YEARS EACH. THIS PERIOD IS TOO SHORT FOR THE PREDICTABILITY DESIRED, GIVEN THE EXPENDITURES NEEDED AND THE COMMITMENT OF FUNDS REQUIRED. ADDITIONALLY, THE TERM "DETRIMENTAL" WHICH IS USED IN SECTION 102 B (2) IS PROBLEMATICAL SINCE IT SETS A DIFFERENT AND PERHAPS HIGHER STANDARD THAN THE ORIGINAL ATOMIC ENERGY ACT TERM "INIMICAL". THE TERM "DETRIMENTAL" NEEDS TO BE EXPLAINED.

3. SECTION 103 STATES THAT THE COMMISSION MUST PROVIDE AN OPPORTUNITY FOR "A SUPPLEMENTAL REVIEW AND PUBLIC HEARING PURSUANT TO SECTION 189 OF ANY ISSUES THAT WERE NOT CONSIDERED IN PRIOR REVIEW OF THE FACILITY". THUS, THE GOAL OF ONE-STEP LICENSING IS FURTHER DILUTED SINCE THERE WILL BE LITTLE OR NO INCENTIVE FOR INTERVENORS TO ADDRESS AS MANY ISSUES AS POSSIBLE AT THE CP HEARING. IT MAY BE NOTED THAT IF THE BASIS FOR THIS LANGUAGE IS THE FEAR THAT SOME

SUBSTANTIAL ISSUE ARISING AFTER THE RECORD IS CLOSED MAY NOT BE ADDRESSED, THAT CONCERN IS UNFOUNDED. EXISTING LEGAL STANDARDS PERMIT REOPENING OF THE RECORD ANY TIME A SUBSTANTIAL ISSUE IS RAISED BY REASON OF THE DEVELOPMENT OF NEW CIRCUMSTANCES OR NEW FACTS. ALSO, THE SECTION-BY-SECTION ANALYSIS MAY EXPAND THE SCOPE OF ISSUES TO BE LITIGATED BY ADDING THE "TRAINING OF PERSONNEL" LANGUAGE. THE SUBSTITUTION OF MAY FOR SHALL IS ALSO FOUND IN SECTION 103 B, "CONSTRUCTION PERMITS AND OPERATING LICENSES" (SEE PARAGRAPH 1).

COMMISSIONER ASSELSTINE'S VIEWS:

ON THE SUBJECT OF NUCLEAR POWERPLANT LICENSING REFORM, I CONTINUE TO BELIEVE THAT LEGISLATION WOULD BE HELPFUL IN DEVELOPING THE NECESSARY REGULATORY FRAMEWORK FOR THE ONGOING EFFORTS OF SEVERAL REACTOR MANUFACTURERS TO DEVELOP MORE COMPLETE STANDARDIZED PLANT DESIGNS. THE RECENT EXPERIENCE WITH THE CONSTRUCTION OF THE ST. LUCIE 2 PLANT IN FLORIDA AND THE THREE-UNIT PALO VERDE PLANT IN ARIZONA, WHICH BOTH REPRESENT A FORM OF STANDARDIZATION, INDICATES THAT THE USE OF MORE STANDARDIZED PLANT DESIGNS CAN HAVE SIGNIFICANT BENEFITS IN ASSURING THAT PLANTS ARE CONSTRUCTED PROPERLY AND WITHIN REALISTIC COST AND SCHEDULE ESTIMATES. SOME PROVISIONS OF THE NRC AND DOE LEGISLATIVE PROPOSALS THAT ARE LESS DIRECTLY RELATED TO THE USE OF STANDARDIZED DESIGNS, SUCH AS BACKFITTING RESTRICTIONS, THE ELIMINATION OF CERTAIN HEARING RIGHTS, MODIFICATIONS TO ADJUDICATORY HEARING PROCEDURES, LIMITATIONS ON THE ROLE OF LICENSING HEARINGS AND ATTEMPTS TO

DEFINE SAFETY-COST TRADE-OFFS, HAVE PROVEN TO BE CONTROVERSIAL. AT THE SAME TIME, THERE APPEARS TO BE MORE OF A CONSENSUS IN FAVOR OF OTHER PROVISIONS MORE DIRECTLY SUPPORTIVE OF STANDARDIZATION, SUCH AS THE AUTHORITY TO ISSUE SITE PERMITS, STANDARDIZED DESIGN APPROVALS AND COMBINED CONSTRUCTION PERMITS AND OPERATING LICENSES, TOGETHER WITH PROVISIONS TO ASSURE AN OPPORTUNITY FOR A HEARING ON EACH SAFETY, SECURITY AND ENVIRONMENTAL ISSUE AT THE EARLIEST POSSIBLE STAGE IN THE LICENSING PROCESS.

GIVEN THE POTENTIAL FOR CONSENSUS ON THESE ELEMENTS AND THEIR BENEFITS IN ENCOURAGING FURTHER STANDARDIZATION, I WOULD SUGGEST THAT THE COMMITTEE CONSIDER A MORE LIMITED BILL THAT FOCUSES ON THE PROVISIONS MOST DIRECTLY RELATED TO THE STANDARDIZATION CONCEPT.

COMMISSIONER BERNTHAL'S VIEWS:

I AM IN ESSENTIAL AGREEMENT WITH MOST OF THE PROVISIONS FOR REGULATORY REFORM CONTAINED IN S. 893, INTRODUCED BY YOU LAST YEAR. I BELIEVE I MENTIONED IN THE PUBLIC HEARING MY POSITION THAT ANY SUCH REGULATORY REFORM LEGISLATION SHOULD, ABOVE ALL, PRESERVE THE FLEXIBILITY OF THE COMMISSION TO DEAL WITH THE CHANGING REGULATORY REQUIREMENTS OF A MATURING INDUSTRY AND TECHNOLOGY. WHILE I HAVE SOME SPECIFIC QUESTIONS (FOR EXAMPLE, IT MAY BE WISE TO RELIEVE THE ACRS OF THE BURDEN OF REVIEWING ALL LICENSE APPLICATIONS), I BELIEVE THAT S. 893 MOST NEARLY APPROXIMATES THAT OBJECTIVE. FINALLY, I WOULD URGE THAT IF

CONGRESS CANNOT ACT ON ALL ELEMENTS OF A REGULATORY REFORM BILL IN THIS SESSION, IT ACT QUICKLY ON THOSE PROVISIONS THAT ARE LARGELY NON-CONTROVERSIAL (E.G., EARLY SITE SELECTION AND STANDARDIZED PLANT DESIGN).

QUESTION 36. DURING THIS SUBCOMMITTEE'S HEARINGS LAST SUMMER ON THE ISSUE OF LICENSING REFORM THE QUESTION OF UTILITY MANAGEMENT COMPETENCE WAS RAISED. PLEASE COMMENT ON THE VALUE OF INCLUDING UTILITY MANAGEMENT COMPETENCE IN LICENSING REFORM.

ANSWER.

THE COMMISSION BELIEVES THAT ITS CURRENT STATUTORY AUTHORITY IS ADEQUATE TO ADDRESS THE QUESTION OF UTILITY MANAGEMENT COMPETENCE. SECTION 103 OF THE ATOMIC ENERGY ACT OF 1954, AS AMENDED, STATES THAT A COMMERCIAL LICENSE SHALL BE ISSUED TO APPLICANTS "WHO ARE EQUIPPED TO OBSERVE AND WHO AGREE TO OBSERVE SUCH SAFETY STANDARDS TO PROTECT HEALTH AND TO MINIMIZE DANGER TO LIFE OR PROPERTY AS THE COMMISSION MAY BY RULE ESTABLISH." SECTION 182A. PROVIDES THAT "[E]ACH APPLICATION FOR A LICENSE HEREUNDER SHALL . . . SPECIFICALLY STATE SUCH INFORMATION AS THE COMMISSION, BY RULE OR REGULATION, MAY DETERMINE TO BE NECESSARY TO DECIDE SUCH OF THE TECHNICAL AND FINANCIAL QUALIFICATIONS OF THE APPLICANT, THE CHARACTER OF THE APPLICANT, . . . OR ANY OTHER QUALIFICATIONS OF THE APPLICANT AS THE COMMISSION MAY DEEM APPROPRIATE FOR THE LICENSE." THESE BROAD STATUTORY PROVISIONS ARE REFLECTED IN THE COMMISSION'S REGULATIONS WHICH REQUIRE THAT "THE APPLICANT IS TECHNICALLY . . . QUALIFIED" TO ENGAGE IN THE ACTIVITIES FOR WHICH A LICENSE IS SOUGHT. 10 CFR §§ 50.40(B) AND 50.57(A)(4). AN APPLICANT IS ALSO REQUIRED TO SUBMIT INFORMATION FOR REVIEW ON ITS ORGANIZATIONAL STRUCTURE, PERSONNEL QUALIFICATIONS AND

TRAINING, AND THE CONDUCT OF OPERATIONS. 10 CFR §§ 50.34(A)(6), 50.34(B)(6), AND 50.34(B)(7). THESE GENERAL REQUIREMENTS ARE THE BASIS FOR THE COMMISSION'S EVALUATION OF MANAGEMENT COMPETENCE AS PART OF ITS REVIEW TO DETERMINE WHETHER OR NOT THERE IS REASONABLE ASSURANCE THAT THE APPLICANT CAN CONSTRUCT AND OPERATE THE FACILITY WITHOUT UNDUE RISK TO THE HEALTH AND SAFETY OF THE PUBLIC.

IN GENERAL, THE EVALUATION OF MANAGEMENT COMPETENCE HAS BEEN GUIDED BY: (1) WHETHER THE APPLICANT'S STAFF AND MANAGEMENT HAVE SUFFICIENT TECHNICAL AND MANAGERIAL EXPERTISE AND EXPERIENCE TO CONSTRUCT THE PLANT PROPERLY AND OPERATE IT SAFELY; (2) WHETHER AN APPLICANT'S STAFF AND MANAGEMENT ARE ORGANIZATIONALLY STRUCTURED SO AS TO PERMIT AND ENCOURAGE THE UNHINDERED APPLICATION OF THEIR EXPERTISE AND EXPERIENCE; AND (3) WHETHER AN APPLICANT'S PROGRAMS AND PROCEDURES REQUIRE THE APPLICATION OF THAT EXPERTISE AND EXPERIENCE IN THE CONSTRUCTION AND OPERATION OF THE NUCLEAR PLANT, CONSISTENT WITH THE COMMISSION'S REGULATIONS, THE LICENSE CONDITIONS, AND THE ATOMIC ENERGY ACT. IN THE MATTER OF HOUSTON LIGHTING AND POWER (SOUTH TEXAS PROJECT UNITS 1 AND 2) LBP-84-13 (MARCH 14, 1984).

QUESTION 37. IN HIS MARCH 30, 1983, RESPONSE TO MY LETTER REGARDING DECOMMISSIONING, CHAIRMAN PALLADINO INDICATED THAT THE STAFF OF THE NRC WAS CONSIDERING RULE CHANGES THAT WOULD: (1) REQUIRE THAT APPLICANTS AND LICENSEES MAKE PROVISIONS FOR FACILITATION OF DECOMMISSIONING PLANTS IN THEIR DESIGNS AND OPERATIONS (RESPONSE 4(A)) AND (2) REQUIRE A DECOMMISSIONING FUND PLAN FOR NEW REACTORS PRIOR TO LICENSING AS WELL AS FOR EXISTING REACTOR LICENSEES (RESPONSE 1(B)). WERE ANY SUCH RULE CHANGES PROMULGATED IN 1983? WILL THEY BE PROMULGATED IN 1984?

ANSWER.

THE PROPOSED DECOMMISSIONING RULE IS PLANNED FOR ISSUANCE DURING FY 1984. FOLLOWING PUBLIC COMMENT, IT IS EXPECTED THAT A FINAL RULE WILL BE ISSUED IN FY 1985.

THE PROPOSED RULE SECTION REQUIRING SUBMITTAL OF INFORMATION DEMONSTRATING HOW A FACILITY HAS BEEN DESIGNED TO FACILITATE DECOMMISSIONING WILL APPLY ONLY TO APPLICANTS FOR CONSTRUCTION PERMITS. THEREFORE, FACILITATION CAN BE CONSIDERED BY APPLICANTS AS PART OF THE DESIGN PROCESS FOR REDUCING OCCUPATIONAL EXPOSURES. REQUIRING THAT FACILITATION BE CONSIDERED AT THIS EARLY STAGE ALLOWS FOR MORE EFFICIENT PLANNING AND LESS COSTLY IMPLEMENTATION.

REQUIREMENTS FOR APPLICANTS FOR OPERATING LICENSES AND FOR LICENSEES CONTAINED IN THE PROPOSED RULES FOR FACILITATION ARE THAT EACH LICENSEE "SHALL FACILITATE DECOMMISSIONING BY DESIGNING OPERATIONAL AND CONTROL PROCEDURES IN SUCH A WAY AS TO REDUCE THE SPREAD OF RADIOACTIVE CONTAMINATION IN AND AROUND THE FACILITY AND PERMIT MORE EFFICIENT REMOVAL OF CONTAMINATION FROM EQUIPMENT AND PREMISES." THESE REQUIREMENTS ARE INTENDED TO FOCUS LICENSEE ATTENTION ON THE MATTER OF FACILITATION SO THAT HE INCORPORATES IT INTO HIS PRACTICES AS A MEANS FOR REDUCING OCCUPATIONAL EXPOSURES. HOWEVER, NO SUBMITTAL OF INFORMATION ON FACILITATION FOR NRC APPROVAL IS REQUIRED AT THIS STAGE AND NO MANDATORY DESIGN RETROFITS ARE BEING CONSIDERED.

FACILITATION ASPECTS ARE IN MANY INSTANCES GOOD PRACTICES AND IT IS EXPECTED THAT THEY WOULD BE CONSIDERED BASED ON COST-BENEFIT CONSIDERATIONS. THIS COST-BENEFIT ANALYSIS WOULD CONSIDER THE SAFETY IMPACT BALANCED AGAINST RESULTANT FINANCIAL IMPACT. AS PART OF THIS BALANCE, IT IS EXPECTED THAT FEATURES OR PROCEDURES OF FACILITATION THAT ARE IMPLEMENTED, IN ADDITION TO REDUCING DOSE AND WASTE VOLUME, MAY ALSO REDUCE OPERATING COSTS AND ACTUAL DECOMMISSIONING COSTS TO POTENTIALLY OFFSET THEIR INITIAL COSTS.

AS NOTED IN THE RESPONSE TO QUESTION 4(A) OF THE MARCH 30, 1983 LETTER, IT IS ANTICIPATED THAT A REGULATORY GUIDE WILL BE PREPARED TO PROVIDE GUIDANCE ON FACILITATION METHODS THAT SHOULD BE CONSIDERED. TO PROVIDE INPUT TO THIS GUIDANCE, NRC WILL COMPLETE BY JULY 1984 A STUDY ON POTENTIAL FACILITATION METHODS

THAT ARE GOOD PRACTICES OR ARE COST-EFFECTIVE IN A GENERIC SITUATION. LICENSEES COULD CONSIDER THESE METHODS FOR THEIR SPECIFIC CIRCUMSTANCES.

QUESTION 38. OF THE POWER REACTORS CURRENTLY LICENSED IN THE UNITED STATES, HOW MANY HAVE PROVIDED THE NRC A FUNDING PLAN FOR THE DECOMMISSIONING OF THE PLANT?

ANSWER.

NONE. PRIOR TO MARCH 31, 1982 APPLICANTS FOR POWER REACTOR LICENSES WERE REQUIRED TO DEMONSTRATE THAT THEY HAD THE FINANCIAL CAPABILITY FOR CONSTRUCTION, OPERATION, AND DECOMMISSIONING OF THE PLANTS. HOWEVER, THIS REGULATORY REQUIREMENT DID NOT REQUIRE THE SUBMITTAL OF A FUNDING PLAN FOR DECOMMISSIONING. ON MARCH 31, 1982 THE COMMISSION ISSUED A RULE CHANGE THAT DELETED THE REQUIREMENTS FOR SUBMITTAL OF THIS FINANCIAL INFORMATION. THE MARCH 31, 1982 RULE CHANGE ANTICIPATED THAT AN ADDITIONAL RULE CHANGE REGARDING DECOMMISSIONING ACTIVITIES WOULD SPECIFY IN DETAIL THE REQUIREMENTS FOR A FUNDING PLAN FOR DECOMMISSIONING. THE ANTICIPATED RULE CHANGE FOR DECOMMISSIONING, AS DISCUSSED IN OUR RESPONSE TO QUESTION NO. 37, WOULD REQUIRE ALL CURRENT AND FUTURE LICENSEES TO PROVIDE FUNDING PLANS FOR DECOMMISSIONING.

QUESTION 39. OF THE POWER REACTORS CURRENTLY LICENSED IN THE UNITED STATES, HOW MANY HAVE PROVIDED THE NRC A DECOMMISSIONING PLAN, WHICH SHOULD INCLUDE ANTICIPATED COSTS AND METHOD OF DECOMMISSIONING?

ANSWER.

NONE OF THE LICENSED POWER REACTORS CURRENTLY IN OPERATION HAVE PROVIDED THE NRC WITH A DECOMMISSIONING PLAN.

SOME CURRENTLY LICENSED PLANTS THAT ARE SHUTDOWN HAVE SUBMITTED DECOMMISSIONING PLANS WHICH HAVE BEEN IMPLEMENTED. THESE ARE:

(1) FERMI UNIT 1 IN MICHIGAN WAS A SODIUM COOLED POWER REACTOR THAT WAS SHUTDOWN IN 1973, DEFUELED AND PLACED IN A SAFE STORAGE/MOTHBALLED STATUS TO ALLOW RESIDUAL RADIOACTIVITY TO DECAY.

(2) PEACH BOTTOM UNIT 1 IN PENNSYLVANIA IS A GAS COOLED POWER REACTOR THAT WAS SHUTDOWN IN 1974, DEFUELED AND ALSO PLACED IN A SAFE STORAGE MODE.

(3) THE GENERAL ELECTRIC VALLECITOS BOILING WATER POWER REACTOR IN CALIFORNIA WAS SHUTDOWN IN THE EARLY 1960'S DEFUELED AND IS CURRENTLY IN A SAFE STORAGE MODE.

IN ADDITION, A DECOMMISSIONING PLAN HAS BEEN SUBMITTED FOR INDIAN POINT UNIT NO. 1 IN NEW YORK. THIS PLAN, WHICH HAS NOT YET BEEN IMPLEMENTED, CALLS FOR SAFE STORAGE OF UNIT 1 UNTIL AFTER INDIAN POINT UNIT 2 HAS BEEN SHUTDOWN. UNIT 1 WAS SHUTDOWN IN 1974.

A DECOMMISSIONING PLAN FOR THE HUMBOLDT BAY NUCLEAR POWER PLANT IN CALIFORNIA IS SCHEDULED FOR SUBMITTAL IN APRIL OF THIS YEAR. THE HUMBOLDT BAY PLANT, HAS BEEN SHUTDOWN SINCE 1976.

QUESTION 40. OF THE PLANTS LIKELY TO BE ISSUED OPERATING LICENSES DURING THE REMAINDER OF FY '84, HOW MANY HAVE PROVIDED THE NRC A PLAN FOR DECOMMISSIONING, WHICH SHOULD INCLUDE A FUNDING PLAN AND A METHOD OF DECOMMISSIONING?

ANSWER.

NO PLANTS LIKELY TO BE ISSUED OPERATING LICENSES DURING THE REMAINDER OF FY 1984 HAVE PROVIDED THE NRC WITH PLANS FOR DECOMMISSIONING OR FUNDING PLANS. PROPOSED RULE CHANGES TO BE PUBLISHED AS DISCUSSED IN OUR RESPONSE TO QUESTION NO. 37, WILL REQUIRE FUNDING PLANS TO BE SUBMITTED BY APPLICANTS FOR OPERATING LICENSES. NO SUCH REQUIREMENT EXISTS AT THIS TIME, HOWEVER.

QUESTION 41. WHAT IS THE BASIS FOR THE STAFF RECOMMENDATION REGARDING THE "NO SIGNIFICANT HAZARDS" DETERMINATION REGARDING THE REPAIR OF THE STEAM GENERATORS AT TMI UNIT 1? HOW DO YOU RECONCILE THIS RECOMMENDATION WITH CONGRESSIONAL INTENT? HOW DOES THE COMMISSION INTEND TO DEAL WITH THIS RECOMMENDATION?

ANSWER.

THE STAFF'S RECOMMENDATION OF NO SIGNIFICANT HAZARDS CONSIDERATION OF NOVEMBER 18, 1983 DEALT WITH A PROPOSED LICENSE AMENDMENT WHICH EFFECTIVELY WOULD PERMIT THE RETURN OF THE REPAIRED STEAM GENERATORS TO SERVICE. THE STAFF'S DETERMINATION THAT THE PROPOSED LICENSE AMENDMENT INVOLVES NO SIGNIFICANT HAZARDS CONSIDERATIONS WAS BASED ON ITS EVALUATION OF THE AMENDMENT AGAINST THE CRITERIA DEFINED IN 10 CFR 50.92. THIS REGULATION STATES THAT THE COMMISSION MAY MAKE A FINAL DETERMINATION THAT A PROPOSED LICENSE AMENDMENT INVOLVES NO SIGNIFICANT HAZARDS CONSIDERATIONS IF OPERATION OF THE FACILITY IN ACCORDANCE WITH THE PROPOSED AMENDMENT WOULD NOT:

(1) INVOLVE A SIGNIFICANT INCREASE IN THE PROBABILITY OR CONSEQUENCES OF AN ACCIDENT PREVIOUSLY EVALUATED; OR
(2) CREATE THE POSSIBILITY OF A NEW OR DIFFERENT KIND OF ACCIDENT FROM ANY ACCIDENT PREVIOUSLY EVALUATED; OR
(3) INVOLVE A SIGNIFICANT REDUCTION IN A MARGIN OF SAFETY.

PRINCIPAL AMONG THE CONSIDERATIONS FOR THE STAFF'S RECOMMENDATION ARE THE CONCLUSIONS BY THE STAFF THAT THE STEAM GENERATORS HAVE BEEN RETURNED TO THEIR ORIGINAL LICENSING BASIS, AND THAT STRESS CORROSION CRACKING OF THE STEAM GENERATOR TUBES IS NOT LIKELY TO RECUR. SATISFACTORY COMPLETION OF THE STEAM GENERATOR HOT TESTING FURTHER CONFIRMED THESE CONCLUSIONS. IN ADDITION, ACCEPTABLE COMPENSATORY MEASURES HAVE BEEN TAKEN TO PREVENT RE-INTRODUCTION OF CONTAMINANTS AND TO INHIBIT THE EFFECTS OF ANY CONTAMINATION ON CRACK INITIATION AND PROPAGATION.

IT SHOULD BE NOTED THAT THE STAFF HAD BEEN INVOLVED WITH THE REVIEW OF THE REPAIR PROGRAM FOR OVER A YEAR PRIOR TO LICENSEE'S AMENDMENT SUBMITTAL OF MAY 9, 1983, SO THAT A MAJOR PART OF THE REVIEW HAD ALREADY BEEN COMPLETED AT THE TIME THE STAFF PREPARED ITS RECOMMENDATION REGARDING THE "NO SIGNIFICANT HAZARDS" DETERMINATION.

THE STAFF WAS GUIDED IN THIS MATTER BY THE COMMISSION'S VIEWS REGARDING CONGRESSIONAL INTENT AS PUBLISHED IN THE FEDERAL REGISTER (4/6/83) IN THE PREFACE TO THE SHOLLY RULE.

THE COMMISSION WILL DECIDE WHETHER TO MAKE A "NO SIGNIFICANT HAZARDS DETERMINATION" ONLY IF THE PLANT IS READY TO OPERATE. IN THE MEANTIME, HEARINGS ON THE AMENDMENT ARE IN PROGRESS. THE AMENDMENT WILL NOT BE ISSUED UNLESS THE HEARINGS ARE COMPLETED, AND A FAVORABLE DECISION RESULTS, OR IF THE HEARINGS ARE NOT COMPLETED, UNLESS THE COMMISSION MAJORITY VOTES THAT NO

SIGNIFICANT HAZARDS CONSIDERATION IS INVOLVED IN RETURNING THE STEAM GENERATORS TO OPERABLE STATUS.

COMMISSIONER GILINSKY ADDS:

IT IS CLEAR, IF ONLY FROM THE AMOUNT OF TIME THAT THE STAFF HAS DEVOTED TO RENEWING THIS MATTER, THAT THERE IS A SIGNIFICANT QUESTION ABOUT THE SAFETY OF THE STEAM GENERATOR TUBE REPAIRS. IN MY VIEW, THE LEGISLATION QUITE CLEARLY REQUIRES ANY HEARING ON AN IMPORTANT SAFETY QUESTION BE COMPLETED PRIOR TO THE ISSUANCE OF THE LICENSE AMENDMENT. THE STAFF'S ULTIMATE CONCLUSIONS AS TO THAT QUESTION ARE IRRELEVANT TO THE TIMING OF THE HEARING.

COMMISSIONER ASSELSTINE ADDS:

COMMISSIONER ASSELSTINE DOES NOT AGREE WITH THE STAFF'S INTERPRETATION OF THE SHOLLY AMENDMENT AND BELIEVES THAT IT IS INCONSISTENT WITH CONGRESSIONAL INTENT. HIS VIEWS ARE SET OUT IN MORE DETAIL IN THE ATTACHED SEPARATE VIEWS. FURTHER, THE STAFF IS APPLYING ITS INTERPRETATION IN ALL LICENSE AMENDMENT CASES, NOT JUST IN THE CASE OF THE TMI-1 STEAM GENERATOR REPAIRS. FOR THIS REASON, HE BELIEVES THE COMMISSION HAS A DUTY TO VOTE ON THE ISSUE AND GIVE THE STAFF GUIDANCE ON THE CORRECTNESS OF ITS INTERPRETATION NOW, RATHER THAN WAITING UNTIL TMI-1 IS READY TO RESTART.

VIEWS OF COMMISSIONER JAMES K. ASSELSTINE ON THE NRC STAFF'S NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION ON THE THREE MILE ISLAND UNIT 1 (TMI-1) LICENSE AMENDMENT APPLICATION FOR STEAM GENERATOR REPAIRS

On November 18, 1983 the staff asked the Commission to concur in the staff's final determination that there is no significant hazards consideration associated "with the operation of the repaired steam generators at TMI-1." Unfortunately, staff has misinterpreted the Sholly Amendment, and a finding of no significant hazards consideration is not appropriate in this case. Moreover, staff is interpreting the Commission's regulations implementing the Sholly Amendment in a manner that is inconsistent with the language of the statute and with the clear intent of Congress, as evidenced by the legislative history of the Sholly Amendment. I cannot, therefore, agree with staff's determination in this case or with staff's interpretation of the Commission's regulations implementing the Sholly Amendment.

Staff's determination of no significant hazards consideration is based upon a 1983 amendment - the Sholly amendment - to section 189 of the Atomic Energy Act. The Sholly provision permits the Commission to make a license amendment immediately effective, without first granting any requested hearing on the merits of the amendment, if the Commission makes a determination that the proposed amendment involves no significant hazards consideration. 1982-83 Authorization Act for the Nuclear Regulatory Commission, Pub. L. No. 97-415, 96 Stat. 2067 (1983).

The Commission has promulgated regulations which establish procedures and criteria to be used in making the "no significant hazards consideration" (NSHC) determination. Standards for Determining Whether License Amendments Involve No Significant Hazards Considerations, 48 Fed. Reg. 14864 and 14873 (1983) (to be codified at 10 C.F.R. §50.91 and 50.92). These regulations provide that for each license amendment for which the staff has made a NSHC determination the staff must first publish its proposed determination in the Federal Register for a 30 day comment period. At the end of the comment period, the amendment may become immediately effective if there has been no request for a hearing on the amendment. In such cases no further NSHC determination is made. If the Commission receives a proper request for a public hearing within the 30 day comment period, the Commission will then issue a final NSHC determination. If the final determination is that there is no significant hazards consideration, then the amendment becomes effective immediately, even if adverse public comments have been received and even though an interested person has filed a proper request for a hearing. In such cases, the Commission need not hold any required hearing before it issues the amendment. If, on the other hand, the Commission determines that there are significant hazards considerations involved in the proposed amendment, any required hearing must be completed before the amendment may be issued.

In making its determination on whether a particular amendment involves significant hazards considerations the regulations require the Commission to consider whether "operation of the facility in accordance with the proposed amendment would....

> (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or

> (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or
>
> (3) Involve a significant reduction in a margin of safety."
>
> 48 Fed. Reg. 14864, 14871 (1983) (to be codified at 10 CFR § 50.92).

In its Statement of Considerations attached to the Sholly amendment rules, the Commission also provided examples both of amendments likely to involve significant hazards consideration and of those unlikely to involve significant hazards considerations. 48 Fed. Reg. 14864, 14870.

In an April 30, 1982 letter, the licensee for TMI-1 informed the NRC that it intended to repair its steam generators under the authority of 10 CFR § 50.59 using the kinetic expansion repair technique.[1] By citing section 50.59 of Commission regulations licensee indicated it had determined that its proposed repair would not involve "a change in the technical specifications incorporated in the license or an unresolved safety question." 10 CFR § 50.59. This meant that licensee thought it could proceed with the repair without prior Commission approval. In August of 1982, staff told licensee that the steam generator problem appeared to involve unreviewed safety questions. The staff's major concerns were:

1. The corrosion mechanism and extent of corrosion in the steam generators are unique. The staff had not reviewed the potential consequences of additional plant operation subsequent to

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[1] This technique involves the use of small explosive charges inside each steam generator tube to expand the tube and make it tight against the tubesheet. This is to prevent tube failures caused by corrosion. The tubes would normally have been repaired by plugging, which consists of placing a plug in the tube to prevent water from flowing through it.

> the repair of the defects. In particular, the potential for this type of corrosion to reinitiate during operation and to rapidly progress, thus adversely affecting the steam generator primary pressure boundary, needed to be reviewed by the staff.
>
> 2. The potential existed for this type of corrosion to attack other primary pressure boundary materials.
>
> 3. The proposed tube repair technique (kinetic expansion) had not previously been approved by the staff as an acceptable method for repairing defective steam generator tubes.
>
> 4. Since portions of the tubes within the tubesheet contained defects greater than 40% through-wall and the repair method for the majority of these defects did not involve plugging, an amendment to the plant Technical Specification (Tech Spec or TS) 4.19 is needed prior to return to power operation.[2]
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> "Safety Evaluation of Steam Generator Tube Repair and Return to Operation," NUREG-1019, p.1 (1983). (footnote added)

The licensee conducted an extensive program to return the steam generator to service, and the staff issued a safety evaluation of the kinetic expansion repair technique in October of 1982. The staff found that the repair itself did not involve an unreviewed safety question or a modification to the technical specifications, and could, therefore, be conducted without prior NRC approval. However, the staff concluded that NRC approval of the overall program to return the steam generator to service was necessary before any operation of the plant would be permitted because operation of the plant with kinetically expanded tubes would require a modification of the technical specifications. NUREG-1019, p. 2.

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[2] A TMI-1 Tech Spec permits operation only with tubes repaired by plugging, not with tubes repaired by the kinetic expansion technique. The Tech Spec is considered a part of the license and an amendment of the Tech Spec is an amendment to the license.

On May 9, 1983, licensee submitted to the Commission its request to revise the technical specifications to allow operation of the plant after repair of a steam generator by methods other than plugging. On May 31, 1983, staff published in the Federal Register a proposed no significant hazards consideration determination for the requested amendment to the technical specifications. The staff concluded that the amendment "does not involve a significant hazards consideration because compensatory measures will be employed to provide a level of safety in operation with the repaired steam generators commensurate with that anticipated of the facility had it not experienced the need to repair steam generators." Metropolitan Edison Co., et. al., Issuance of Amendment to Facility Operating License and Proposed no Significant Hazards Consideration Determination and Opportunity for Hearing, 38 Fed. Reg. 24231(1983). That Federal Register notice also sought public comment on the determination and announced an opportunity to request a public hearing on the merits of the amendment request. An intervening party requested a hearing within the prescribed time and was admitted as a party. That proceeding is now in its early stages.

The staff issued a Safety Evaluation on August 25, 1983 in which it evaluated the kinetic expansion repair method and subsequent operation of the facility using the repaired steam generators. NUREG 1019. Staff found the repair process effective and reliable, and found that licensee had returned the reactor coolant system to its original licensing basis. NUREG-1019, p. 45. Licensee conducted post-repair testing, including hot-functional testing, of the steam generators, and on November 18, 1983 staff sent to the Commission two documents: (1) Staff's Supplement to its August 25th Safety Evaluation; and (2) Staff's final no significant hazards consideration determination. In its final determination, staff found that operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident not previously evaluated, or (3) involve a significant reduction in a margin of safety. "Final Determination of No Significant Hazards Consideration," pp. 10-12; and see, 10 CFR § 50.92. The staff concluded, therefore, that operation of TMI-1 with the repaired steam generators involved no significant hazards consideration.

In two Commission briefings, staff clarified its findings. See, "Briefing/Possible Vote on TMI-Steam Generators", Transcript of Commission Meeting, December 7, 1983; and, "Strategies for Potential Litigation on TMI-1 Steam Generators", Transcript of Commission Meeting, December 8, 1983. Staff explained that when it made its NSHC determination, it looked at the repair in terms of would the repair create significant additional risk to operation of the plant. See, Tr. p. 46, lines 17-25; p. 57, lines 7-22; p. 72 line 2 to p. 73 line 6 (Dec. 7, 1983) and Tr. p. 22 lines 7-10; p. 31 lines 8-11 (Dec. 8, 1983). Since the requested amendment was a repair, the purpose of which was to restore the plant to its prior condition -- that is, to return it to its original licensing basis, the staff concluded that there could be no significant hazards consideration. Tr. 69, line 14-20. Moreover, since all of the testing, analysis and repairs were complete before the staff issued its final determination of no significant hazards consideration, staff based its determination on NUREG-1019 and

NUREG-1019, Supplement 1, which staff found affirmed its preliminary determination. Thus, as the staff explained, it made its preliminary and final determinations of no significant hazards consideration based on the merits of the amendment itself - i.e., on whether the amendment posed significant additional risk to operation of the plant.

Unfortunately, that determination is not the determination called for by the Sholly amendment. Rather, as its legislative history makes abundantly clear, the Sholly provision requires the Commission to determine whether the amendment presents any significant safety questions, i.e. whether the amendment poses any significant new or unreviewed safety issues for consideration. The report of the Conference Committee on the legislation which enacted the Sholly amendment emphasizes that in making a determination of no significant hazards consideration, the Commission is not to prejudge the merits of the amendment -- i.e., whether the plant could operate without significant additional risk as a result of the amendment. Instead, the Commission is merely to determine whether there are significant health or safety issues involved. H.R. Rep. No. 884, 97th Cong., 2d Sess. 37-38(1982). The Commission is to examine the proposed amendment and determine whether the Commission, in making a decision on the amendment application, would have to consider and address significant health and safety questions. As the report of the Senate Committee which recommended the Sholly amendment states: "The determination of 'no significant hazards consideration' should represent a judgment on the nature of the issues raised by the license amendment rather than a conclusion about the merits of those issues." S. Rep. No. 113, 97th Cong., 1st Sess. 15 (1981).

Staff asserts, however, that it applied Commission regulations literally in making its no significant hazards consideration determinations, and that that should suffice. Staff reviewed each of the three criteria in section 50.92, and found no significant increase in the probability and consequences of an accident, no possibility of a new or different accident and no significant reduction in a margin of safety. Since staff found no significant additional risk, it concluded that there were no significant hazards considerations. "Final Determination of No Significant Hazards Consideration," pp. 10-12. Staff notes that the regulations it applied were available to Congress in proposed form at the time the Sholly amendment was being considered by Congress, and argues that since Congress did not object to those standards, and that since portions of the legislative history indicate Congressional intent to codify past Commission practice, staff's interpretation of the Sholly amendment must be acceptable. See, for example, H.R. No. 22 Part 2, 97th Cong., 1st Sess. 26 (1981).

Staff's argument is without merit. Read in isolation, the Commission's regulations could be interpreted as Staff does. However, the central question is what Congress understood "no significant hazards consideration" and the Commission regulations to mean. The regultions must, then, be read in context; they must be read against the background of the legislative history of the Sholly amendment.

As discussed above, the language of the Committee reports on the Sholly legislation expresses the issue clearly in terms of significant health or safety questions and also expresses Congress' understanding that the NSHC determination will not be a merits determination. H.R. Rep. No. 884, 97th Cong., 2d Sess. 37-38 (1982); S. Rep. No. 113, 97th Co g., 1st Sess. 14-15 (1981). Also, the Commission repeatedly presented the issue to various congressional committees as a question of significant issues, not as a question of significant risk. Then Chairman Hendrie told the House Subcommitte on Energy and the Environment that whether there were significant hazards considerations was a question of whether there were "significant safety questions involved", whether there were "new safety issues raised, no new unreviewed hazards connected with an amendment", and whether the Commission saw "any safety-connected issues" in the amendment. "Nuclear Regulatory Commission Operating Licensing Process: Oversight Hearing Before the Subcommittee on Energy and the Environment of the House Committee on Interior and Insular Affairs," 97th Cong., 1st Sess. 30, 32 and 75 (1981) (statements of Joseph Hendrie, Chairman NRC). Chairman Hendrie also explained the meaning of "no significant hazards consideration" to the Senate Subcommittee on Nuclear Regulation. He said "We are dealing here with a class of amendments that involve no safety questions in our view of any significance", and in answer to a question from Senator Hart explained that "It means no significant questions of public health and safety." "Nuclear Powerplant Licensing Delays and the Impact of the Sholly Versus NRC Decision: Hearings Before the Subcommittee on Nuclear Regulation of the Senate Committee on Environment and Public Works," 97th Cong., 1st Sess. 138, 149, 156 (1981) (statements of Joseph Hendrie, Chairman NRC). Based upon the Commission's testimony, Congress understood that the question of no significant hazards considerations was a question of significant safety issues, not a question of significant additional risk, and that the NSHC determination would not be a judgment on the merits of the amendment.[3]

Given this understanding, what weight can we afford to the fact that Congress was aware of proposed Commission regulations which contained the same three criteria for making NSHC determinations now contained in 10 CFR § 50.92 and applied by the staff in this case? One must first place into the balance the fact that Congress described what it expected the Commission's criteria to look like. That description excluded any standard which would have the staff making a NSHC determination based on the merits of the amendment application:

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[3] Further, in 1978 the Congress failed, when specifically requested, to adopt the staff's interpretation by changing the "the no significant hazards consideration" language in section 189 of the Atomic Energy Act to "no significant additional risk to the public health and safety."

In supporting this proposed change in the wording of the statute, then Chairman Hendrie explained to the Senate Committee on Environment and Public Works:

> Finally, I want to take note of a provision that revises slightly the present provisions of the Act dealing with advance notice of certain amendments. The present Act calls for advance notice of issuance of certain construction permit and operating license amendments when a "significant hazards consideration" is involved. This provision has proved extremely difficult to administer, primarily because of its apparent emphasis on the amount of controversy and review effort associated with the amendment, rather than on substantive matters. The bill would revise this provision so as to place the emphasis where it should be - on the amount of additional risk, if any, to public health and safety posed by the proposed amendment. If the proposed amendment does entail a significant additional risk, then prior public notice and opportunity for hearing should and would be afforded. "Nuclear Siting and Licensing Act of 1978: Hearings Before the Subcommittee on Nuclear Regulation of the Senate Committee on Environment and Public Works," 95th Cong., 2d Sess. 183-84 (1978).

Congress failed to amend section 189 of the Atomic Energy Act as requested, leaving intact the "no significant hazards consideration"

(Footnote Continued)

> The conferees also expect the Commission, in promulgating the regulations required by the new subsection (2)(C)(i) of section 189a. of the Atomic Energy Act, to establish standards that to the extent practicable draw a clear distinction between license amendments that involve a significant hazards consideration and those amendments that involve no such consideration. These standards should not require the NRC staff to prejudge the merits of the issues raised by a proposed license amendment. Rather, they should only require the staff to identify those issues and determine whether they involve significant health, safety or environmental considerations. These standards should be capable of being applied with ease and certainly, (sic) and should ensure that the NRC staff does not resolve doubtful or borderline cases with a finding of no significant hazards consideration.

H.R. Rep. No. 884, 97th Cong., 2d Sess. 37 (1982).

Thus, although Congress was aware of the Commission's proposed regulations, it did not understand them to, or endorse an interpretation of them which would, allow the Commission to make its NSHC determination based on the merits of the proposed license amendment.

Furthermore, while staff's literal interpretation of the regulation is reasonable when the rule is read in isolation, it is not the only plausible interpretation. The criteria in 10 CFR § 50.92 can be read as being consistent with the "significant safety issues" interpretation of the Sholly amdendment. For example, using the language of the regulation, a license amendment could "involve" a significant increase in the probability or consequences of an accident or a significant reduction in a margin of safety if, because of factual or methodological disputes, competent experts could disagree about whether such results could occur. Such disagreement could involve a significant safety

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(Footnote Continued)
language. This language was retained when the Sholly amendment was passed five years later.

question, and thus a significant hazards consideration. Under this interpretation, Congress would have read the Commission's regulations as being consistent with a "significant safety questions" interpretation of the Sholly Amendment, and the mere fact that Congress was aware of the regulations does not mean that they endorsed the interpretation staff is now putting forward in this case.

A final factor to consider on this question of interpretating the term "no significant hazards consideration" is the Commission's own statment in its notice of rulemaking. In the Notice of Rulemaking for the criteria in 10 CFR § 50.92, the Commission disavowed any intent to use the NSHC criteria to prejudge the merits of the final safety review. 48 Fed. Reg. 14867 (1983).

When the Commission regulation is read in context, the evidence weighs heavily against the staff's literal reading of the regulations being an acceptable interpretation of the term "no significant hazards consideration." It is evident, then, that what staff should have considered was whether there were any new or unreviewed safety issues associated with the repair. Whether the plant can operate safely with the repaired tubes - i.e. the merits of the amendment application - should not have been the basis for staff's NSHC determination.[4]

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[4] Staff argues further that this interpretation of the Sholly amendment would have required them to ignore all of the technical information available which indicated that the repairs were adequate. The argument apparently is that in determining whether the issues raised are significant, the staff should be able to consider all information available to it on the merits of the amendment application. This argument might have some validity if the no significant hazards consideration determination were to be made on whether there is "significant additional risk". But, the question is the significance of

(Footnote Continued)

Staff indicated in its Commission briefings that even if the Commission does not accept its "significant additional risk" interpretation of the Sholly amendment, it has complied with the amendment under the "significant issues" interpretation. At those briefings, staff told the Commission that it had considered whether there were significant new or unreviewed safety issues involved with operation of the plant after repair and had found none. See, Tr. p. 85, lines 9-25; p. 98 line 25 to p. 100 line 8 (Dec. 7, 1983) and Tr. p. 19 line 3 to p. 21 line 15; p. 38 line 5 to p. 39 line 10. (December 8, 1983) Unfortunately, there is no evidence of this in the staff's NSHC determination or in either the Safety Evaluation (NUREG-1019) or its Supplement.[5]

(Footnote Continued)
the questions raised by the application, not the significance of any additional risk. Further, to follow this argument to its logical extreme could result in the Commission almost never making a determination that there are significant hazards considerations. The staff and licensee need only complete all of their analysis before making a NSHC determination, and any amendment staff would eventually approve for operation would not contain any significant hazards consideration, regardless of the significance of the questions the staff had to resolve in deciding whether to grant the amendment application, or attach conditions thereto. Since staff rarely, if ever, approves a license amendment that involves significant additional risk, staff's interpretation of the Sholly Amendment would permit virtually all license amendments to be issued without a prior hearing. Such a result is manifestly inconsistent with the position taken by the Commission in requesting the legislation and with the intent of Congress in enacting the Sholly Amendment.

[5] The argument has also been made that staff complied with the Sholly amendment in its preliminary NSHC determination, looking only at the nature of the issues involved rather than at the merits of the amendment application, and that is sufficient. A look at the staff's preliminary determination belies that argument, and shows that the staff was concerned with safety of operation, not with the significance of the questions involved. 48 Fed. Reg. 24231 (1983). See also p. 5, above.

In fact in NUREG-1019, staff identified four issues which it termed unreviewed safety questions. NUREG-1019. See p. 4 above. The staff also tells us that while this process - kinetic expansion of tubes - is not a new process and has been used on millions of new tubes, it has never before been used to repair used reactor tubes in a sensitized condition. Tr. p. 32, lines 10-14; Attachment to Transcript, p. 4 (December 7, 1983). The staff, its consultants, and licensee engaged in a substantial amount of effort in order to reach the conclusion that the repaired steam generators would indeed meet NRC safety requirements. NUREG -1019, Tr. p. 48 lines 10-24. Furthermore, the technical evaluation report provided by Franklin Research Center (FRC), a staff consultant, characterized this repair process in a manner which emphasized both its novelty and its close relation to safety, saying:

> Although the repair process (described earlier) of kinetically expanding tubes onto tubesheets is not new, this is the first application of this method to repair a nuclear steam generator tube in what is, in metallurgical terms, a sensitized condition, i.e., grain boundary precipitation of carbides had resulted from the stress-relieving heat treatment applied to the generators following their original fabrication, which involved mechanical tube rolling and seal welding of the tubes on the outside surface of the tubesheet. Forming a new seal length below the old one and thus eliminating the upper cracked region of tubing from consideration is also a novel application. Finally, the tube/tubesheet crevices were in a oxidized or corroded state stemming from both service operation and idle downtime exposure.
>
> Based upon the history of successful applications of the explosive expansion of tubes into a tubesheet, both in fabricating new heat exchangers and in repairing in-service ones, there did not appear to be any serious questions concerning the technical feasibility of the expansion process. Rather, efforts were concentrated on assuring that the procedure would be adequate ... to meet the tube/tubesheet qualification specifications for strength (pullout) and leaktightness, while at the same time not adversely affecting the structural integrity or fatigue resistance of the generators as a whole.

TER-C5506-311/312/313, Attachment 1 to NUREG-1019, Supp. No. 1, pages 7 and 8.

Thus, not only is this a novel application of this procedure, but it involves important safety considerations such as a leaktightness and structural integrity of the steam generator as a whole.

Under these circumstances, the facts do not appear to support a conclusion that staff dealt with no significant new or unreviewed issues in determining the merits of this amendment application. At a minimum, I would require an explanation of why issues such as the following were not significant new or unreviewed safety issues:

(1) The nature and extent of the corrosion mechanism are unique. Has the corrosion mechanism been arrested? Has it affected other primary system components?

(2) The use of the kinetic expansion repair process has never before been applied to used, sensitized steam generator tubes. What acceptance criteria should the staff apply to the repair?

(3) Do the residues of the kinetic expansion process result in a potential for new corrosion phenomena?

(4) Whether and to what extent the corrosion and subsequent repair lead to a need to change: (a) license conditions,

(b) emergency procedures, and (c) analyses of loss of main feedwater transients.

Absent a convincing explanation, including a documented supporting analysis, I cannot concur in the staff's determination of no significant hazards consideration. As it stands, staff's determination does not comply with the law, and the Commission should not permit the proposed amendment to TMI-1's technical specifications to become immediately effective.

Moreover, it is apparent that staff is applying its "no significant risk" interpretation of the Commission's regulations implementing the Sholly amendment in making all of its NSHC determinations. The Commission should immediately direct staff to apply the "no significant new and unreviewed safety questions" interpretation of the regulations in making all future NSHC determinations.

QUESTION 42. PLEASE EXPLAIN THE PROCESS THAT THE NRC IS FOLLOWING TO SHOW CONCURRENCE WITH THE DOE SITING GUIDELINES FOR HIGH-LEVEL WASTE REPOSITORIES. IT IS THIS MEMBER'S VIEW THAT THE NRC CONCURRENCE PROCEDURE IS AN IMPORTANT STEP IN THE EVALUATION OF THOSE GUIDELINES AND THAT THE NRC SHOULD TAKE CARE NOT TO SIMPLY "RUBBER STAMP" THE PROPOSED GUIDELINES SIMPLY BECAUSE THE TIME CONSTRAINTS ARE FOUND TO BE TIGHT.

ANSWER.

SINCE RECEIVING THE GUIDELINES FROM DOE ON NOVEMBER 23, 1983, THE NRC HAS PROVIDED OPPORTUNITY FOR WRITTEN PUBLIC COMMENT AND A PUBLIC MEETING TO HEAR THE VIEWS OF INTERESTED PARTIES. A PRELIMINARY COMMISSION DECISION WAS PUBLISHED IN THE FEDERAL REGISTER FOR COMMENT ON MARCH 14, 1984. THE NRC STAFF AND DOE STAFF HAVE BEGUN A SERIES OF MEETINGS TO ATTEMPT TO RESOLVE THE COMMISSION'S CONCERNS. THE COMMENT PERIOD CLOSED APRIL 4, 1984. FOLLOWING ANALYSIS OF PUBLIC COMMENTS AND ANY REVISIONS TO THE GUIDELINES MADE BY DOE, THE COMMISSION WILL MAKE ITS FINAL DECISION ON CONCURRENCE.

QUESTION 43. WOULD ANY OF THE COMMISSIONERS CARE TO COMMENT ON THE RECOMMENDATIONS REGARDING THE COMMISSION CONTAINED IN THE FINAL REPORT OF THE PRESIDENT'S PRIVATE SECTOR SURVEY OF COST CONTROL?

ANSWER.

THE GRACE COMMISSION MADE SEVERAL RECOMMENDATIONS CONCERNING THE NRC:

RECOMMENDATION	NRC ACTIVITY
NRC SHOULD SUPPORT THE ADMINISTRATION'S LICENSING REFORM AS PROPOSED BY DOE.	WHILE NRC AGREES THAT LICENSING REFORM IS NECESSARY, AND AGREES WITH SOME OF THE PROVISIONS OF THE ADMINISTRATION'S PROPOSED BILL, IT DOES NOT AGREE WITH ALL. NRC HAS SUBMITTED ITS OWN PROPOSED LEGISLATION.

Recommendation	NRC Activity
NRC should develop firm standards for backfitting ensuring finality in regulatory decisions.	Interim directives to the staff have been issued and a Advanced Notice of Proposed Rulemaking (48 FR 44217) concerning the development of a new backfitting rule has been published. NRC is currently on a path that could lead to a final rule on backfitting by late 1984.
The Congress, the President and NRC should act to improve the safety focus and management capability of the NRC.	The NRC is continuing to work towards improvements in these areas, for example the agency's most recent Policy and Planning Guidance highlights NRC's prime objectives. The NRC is also reevaluating the issue of communications between the Commission and the NRC technical staff on matters being adjudicated. A rule is

RECOMMENDATION

NRC ACTIVITY

BEING PREPARED FOR COMMISSION CONSIDERATION. THE DECENTRALIZATION OF CERTAIN NRC HEADQUARTERS PROGRAMS TO THE REGIONS IS ESSENTIALLY COMPLETE. OUR EFFORTS TO OBTAIN AN AGREEMENT WITH GSA FOR CONSOLIDATION OF NRC HEADQUARTERS OFFICES, HOWEVER, HAVE BEEN UNSUCCESSFUL.

THE COMMISSION AGREES THAT MANAGEMENT OF THE AGENCY COULD BE ENHANCED BY PLACING GREATER AUTHORITY AND RESPONSIBILITY WITH THE CHAIRMAN AND THE EXECUTIVE DIRECTOR FOR OPERATIONS. IN THIS REGARD, THE REORGANIZATION PLAN NO. 1 OF 1980 APPROVED BY THE CONGRESS HAS HAD A POSITIVE IMPACT ON NRC MANAGEMENT EFFECTIVENESS. THE GRACE COMMISSION, WHILE AGREEING THAT THE REASONS UNDERLYING THE KEMENY AND ROGOVIN

RECOMMENDATION

NRC ACTIVITY

RECOMMENDATIONS FOR A SINGLE ADMINISTRATOR REMAIN SOUND, CONCLUDED THAT IT WAS NOT TIMELY SO SOON AFTER ADOPTION OF THE 1980 PLAN TO REOPEN THE QUESTION OF A SINGLE ADMINISTRATOR VERSUS COMMISSION FORM OF MANAGEMENT. THEY RECOMMENDED ALTERNATIVELY THAT ENHANCED AUTHORITY CAN BE PROVIDED TO THE CHAIRMAN TO PERMIT HIM TO FUNCTION MORE EFFECTIVELY AS THE CHIEF EXECUTIVE AND ADMINISTRATIVE OFFICER OF THE AGENCY WHILE PRESERVING THE COLLEGIAL FORM OF NRC FOR BROAD POLICY AND ADJUDICATORY FUNCTIONS. THIS AUTHORITY, THEY STATED, SHOULD PERMIT THE CHAIRMAN TO DELEGATE ADMINISTRATIVE FUNCTIONS TO THE EXECUTIVE DIRECTOR FOR OPERATIONS, AS NEEDED, TO ENABLE THE EDO

RECOMMENDATION

NRC ACTIVITY

TO DISCHARGE THE ROLE OF CHIEF OPERATING OFFICER OF THE AGENCY. SPECIFICALLY THEY RECOMMENDED THAT THE CHAIRMAN BE GIVEN STATUTORY AUTHORITY COMPARABLE TO THAT VESTED IN THE CHAIRMAN OF FERC AND THE HEADS OF MOST OTHER INDEPENDENT REGULATORY AGENCIES. THEY STATED THAT IN THE CASE OF NRC THIS WOULD PRINCIPALLY MEAN ENLARGING THE CHAIRMAN'S AUTHORITY TO INCLUDE APPOINTMENT OF SENIOR OFFICIALS WHOSE SELECTION IS NOW SUBJECT TO COMMISSION APPROVAL; ALLOCATION OF RESOURCES AND DISTRIBUTION OF WORK; AND REMOVING THE CURRENT AUTHORITY OF A VOTING MAJORITY OF THE COMMISSION TO DETERMINE THAT SPECIFIC

RECOMMENDATION

NRC ACTIVITY

MATTERS OR AREAS OF ACTIVITY ARE OF A "POLICY" NATURE AND THEREFORE BEYOND THE CHAIRMAN'S EXECUTIVE AUTHORITY.

COMMISSIONERS GILINSKY AND ASSELSTINE WOULD NOT GIVE THE CHAIRMAN AND THE EDO GREATER AUTHORITY THAN PROVIDED BY THE REORGANIZATION PLAN. SUCH ACTION WOULD BE INCONSISTENT WITH THE COMMISSIONERS' HAVING AN EQUAL VOICE ON POLICY QUESTIONS.

DURING RECENT BUDGET TESTIMONY COMMISSIONER GILINSKY STATED THAT AS A PRACTICAL MATTER A COMMISSION OF FIVE MEMBERS MAY BE TOO UNWIELDY. HE SUGGESTED REDUCING THE SIZE OF THE COMMISSION TO THREE MEMBERS. COMMISSIONER ROBERTS

RECOMMENDATION

NRC ACTIVITY

STATED THAT THIS DID NOT GO FAR ENOUGH AND THAT THE AGENCY SHOULD HAVE ONE ADMINISTRATOR. CHAIRMAN PALLADINO TESTIFIED THAT, ALTHOUGH EARLIER HE HAD SUPPORTED THE COMMISSION FORM, HE NOW BELIEVES A SINGLE ADMINISTRATOR TO BE PREFERABLE. THE CHAIRMAN AND COMMISSIONER ROBERTS ALSO BELIEVE THAT IT MAY NOW BE TIMELY TO REOPEN THE QUESTION OF A SINGLE ADMINISTRATOR VERSUS COMMISSION FORM OF MANAGEMENT. HOWEVER, IF THE CONGRESS DOES NOT WISH TO REOPEN THIS QUESTION, THE CHAIRMAN WOULD WELCOME CONGRESSIONAL IMPLEMENTATION OF THE GRACE COMMISSION RECOMMENDATION TO PROVIDE AUTHORITY TO THE

RECOMMENDATION	NRC ACTIVITY
	CHAIRMAN TO FUNCTION MORE EFFECTIVELY AS THE CHIEF EXECUTIVE AND ADMINISTRATIVE OFFICER OF THE NRC.
	WHILE THE COMMISSION AGREES THAT SAFETY RESPONSIBILITY SHOULD BE THE PRIMARY FOCUS OF THE AGENCY'S ATTENTION, THE COMMISSION ALSO BELIEVES THAT THE EFFORT IT EXPENDS ON INTERNATIONAL MATTERS -- WHILE SUBSTANTIAL -- HAS MERIT. ANTITRUST REVIEWS AND RELATED ACTIVITIES, WHICH IN THE PAST HAD REQUIRED SIGNIFICANT NRC RESOURCES, CURRENTLY REQUIRE ONLY MINIMAL STAFF EFFORT.

RECOMMENDATION	NRC ACTIVITY
NRC SHOULD IMPROVE WORKING INTERFACE WITH LICENSEES FOR MORE EFFECTIVE INTERACTION IN PURSUING MUTUAL SAFETY GOALS.	NRC HAS ENCOURAGED THE ESTABLISHMENT OF AND WORKS IN CLOSE COOPERATION WITH THE INSTITUTE FOR NUCLEAR POWER OPERATIONS; NRC IS INVOLVED IN COOPERATIVE RESEARCH PROGRAMS WITH THE NUCLEAR INDUSTRY AND IS WORKING DIRECTLY WITH UTILITIES TO DEVELOP INDIVIDUAL PLANT SCHEDULES FOR THE INCORPORATION OF NRC REQUIREMENTS, BASED ON BOTH NRC PRIORITIES AND UTILITY RESOURCE AVAILABILITY.
NRC SHOULD CONCENTRATE PARTICULAR MANAGEMENT ATTENTION PROGRAMS THAT INVOLVE INTERAGENCY PARTICIPATION SUCH AS WASTE MANAGEMENT AND EMERGENCY PLANNING.	NRC HAS EFFECTIVE PROGRAMS WITH DOE IN SUPPORT OF THE NWPA AND WITH FEMA IN ON REGARD TO EMERGENCY PLANNING.

COMMISSIONER ROBERTS ADDS:

COMMISSIONER ROBERTS PREFERS THE DOE LEGISLATION FOR THE REASONS DETAILED IN HIS SEPARATE VIEWS (WHICH ACCOMPANIED THE NRC SUBMITTAL OF ITS LEGISLATION).

QUESTION 44. MR. CHAIRMAN, WHAT FACTORS DOES THE NRC CONSIDER IN EVALUATING THE FITNESS OF AN OPERATOR WHO APPLIES FOR A LICENSE TO OPERATE A NUCLEAR PLANT? HOW IS MANAGEMENT INTEGRITY EVALUATED? ARE THESE SAME STANDARDS APPLIED DURING A RE-LICENSING PROCEEDING SUCH AS THAT CURRENTLY UNDERWAY FOR THREE MILE ISLAND UNIT 1

ANSWER.

NRC HAS NO PUBLISHED CRITERIA FOR EVALUATING MANAGEMENT INTEGRITY. SUCH AN EVALUATION IS A QUALITATIVE ASSESSMENT WHICH IS BASED ON THE [LICENSEE'S ACTIONS AND ATTITUDES] FACTS OF A PARTICULAR CASE. IN THE TMI-1 RESTART CASE, THE COMMISSION DIRECTED THE BOARD TO EXAMINE WHETHER THE FACTS REVEALED BY THE TMI-2 ACCIDENT RAISED QUESTIONS ABOUT THE UTILITY'S MANAGEMENT COMPETENCE TO OPERATE UNIT 1 SAFETY. SUBSEQUENTLY, THE BOARD INTERPRETED MANAGEMENT COMPETENCE TO INCLUDE MANAGEMENT INTEGRITY.

COMMISSIONER BERNTHAL ADDS:

THE COMMISSION DOES NOT, AND HAS NEVER, ROUTINELY REQUIRED INFORMATION REGARDING THE CHARACTER OR INTEGRITY OF AN APPLICANT. NOR HAS THE COMMISSION EVER ROUTINELY EVALUATED MANAGEMENT INTEGRITY. ONLY WHEN INTEGRITY HAS BEEN CALLED INTO QUESTION BY LATER EVENTS HAS THE COMMISSION BECOME INVOLVED IN ASSESSING CHARACTER/INTEGRITY.

QUESTION 45. IF THE COMMISSION TAKES INTO ACCOUNT ALL ASPECTS OF A LICENSEE'S PAST ACTIVITIES AND CONDUCT AS A CORPORATE ENTITY AS THE BASIS FOR A RELICENSING PROCEEDING, UNDER WHAT LOGIC DID THE COMMISSION VOTE IN JANUARY TO EXCLUDE CONSIDERATION OF THE SERIOUS CRIMINAL ALLEGATIONS RAISED AGAINST METROPOLITAN EDISON, AND ITS CORPORATE PARENT GPU?

ANSWER.

THE COMMISSION APPRECIATES THE CONCERNS WHICH HAVE BEEN EXPRESSED REGARDING THE CRIMINAL TRIAL. THE THEORY UNDERLYING THE COMMISSION'S JANUARY 27 ADVICE TO THE PARTIES WAS THAT THE CRIMINAL CHARGES COULD BE CONSIDERED IRRELEVANT TO RESTART SO LONG AS NO ONE INVOLVED IN CRIMINAL MATTERS WOULD BE INVOLVED IN TMI-1 OPERATIONS. THE COMMISSION INTENDS TO ISSUE A FULL EXPLANATION OF ITS VIEWS ON THIS MATTER WHEN IT MAKES A RESTART DECISION.

COMMISSIONER ASSELSTINE ADDS:

COMMISSIONER ASSELSTINE DID NOT AGREE WITH THE ACTION TAKEN BY THE MAJORITY IN JANUARY. HIS VIEWS ARE SET OUT IN MORE DETAIL IN HIS SEPARATE VIEWS WHICH ARE ATTACHED.

COMMISSIONER GILINSKY ADDS:

THE COMMISSION HAS NOT PROVIDED A TENABLE RATIONALE FOR DISREGARDING METROPOLITAN EDISON'S GUILTY PLEA. THE VARIOUS

PROPOSALS TO EXCLUDE SPECIFIC INDIVIDUALS FROM TMI-1 OPERATIONS OVERLOOK THE FACT THAT THE ENTIRE CORPORATION WAS INDICTED, WHICH IS FAR MORE SIGNIFICANT THAN THE INDICTMENT OF A FEW INDIVIDUALS. MOREOVER, THE COMMISSION APPROVED THE CONTINUATION IN OFFICE OF THE SAME INDIVIDUALS WHO HEADED THE COMPANY AT THE TIME OF THE EVENTS CHARGED IN THE INDICTMENT.

DISSENTING VIEWS OF COMMISSIONER ASSELSTINE

I do not agree with the majority's decision to proceed with a plan that would allow the restart of TMI Unit 1 prior to the completion of five NRC investigations relating to the integrity of the licensee's management. Stripped to its essentials, the majority's decision amounts to an acceptance with few, if any, modifications of the GPU proposal for restarting TMI-1 before completion of the management integrity investigations. As the NRC staff has recognized, this approach will permit the restart of TMI-1 before the Commission has the information needed to reach a final conclusion on whether the present management of the GPU Nuclear Corporation has the proper character to operate the plant safely. Although there are conditions under which I could approve restart of TMI-1 in advance of the completion of the management integrity investigations, those conditions are not met by the majority's plan.

Last year, the NRC renewed or began five investigations bearing directly on the integrity of GPU management. These investigations covered: (1) the Hartman allegations that leak rate tests for TMI Unit 2 were falsified; (2) information on possible leak rate test falsification for TMI Unit 1; (3) the Parks, Gischel, King allegations that GPU management or others attempted to intimidate or harass individuals who questioned whether procedural requirements relating to the clean-up of TMI-2 were being followed; (4) GPU involvement in a material false statement violation for failure to provide copies of internal GPU reports, including the RHR and BETA reports, to the NRC; and (5) GPU management involvement in modifications to the draft Keaten report. The first of these items--the falsification of leak rate tests at TMI Unit 2--is also the subject of the first criminal indictment of a utility for violating NRC safety requirements in the history of the commercial nuclear power program.

In the case of the TMI-2 leak rate falsification issue, the agency already possesses sufficient information to lead senior members of the NRC staff to conclude that such test falsifications likely did occur, but we do not have access to the information developed by the Department of Justice investigation that served as the basis for the criminal indictment of the utility. As the Department of Justice has recognized, the information supporting the indictment may well be of value to the NRC in evaluating the significance of the leak rate test falsification issue for present TMI-1 management. Given the Justice Department's request that we not interview some 43 individuals who were involved with the operation of TMI-2 at the time of the suspect leak rate tests, it is clear that our investigation of the TMI-2 leak rate falsification issue cannot be completed until after the conclusion of the criminal trial. It also appears likely that this Department of Justice request will limit our ability to complete the TMI-1 leak rate investigation, the Parks, Gischel, King investigation and the investigation of the Keaten report as well. In the case of the TMI-1 leak rate investigation, in particular, the NRC Office of Investigations staff responsible for conducting the investigation have concluded that the TMI-1 leak rate falsification issue cannot be resolved without interviewing a number of individuals on the Justice Department list. This means that investigations of the TMI-1 operators will likely continue beyond the June 1984 date targeted by the majority for restart of TMI-1. Quite apart from the management integrity issue, the NRC staff has expressed safety concerns about the operation of TMI-1 with operators who are under the stress of a continuing NRC investigation.

The GPU plan embraced by the majority attempts to deal with the problem of the incomplete investigations by: (1) preventing those who were assigned to regular duty as TMI-2 licensed operators at the time of the accident from serving on TMI-1 licensed operators; (2) providing some additional internal GPU oversight of TMI-1 operations; and (3) requiring the resignation of Robert Arnold as President and a Director of the GPU Nuclear Corporation. However, even the NRC staff acknowledges that the GPU plan leaves in place at least seven or eight individuals in the GPU-TMI-1 organization who are potentially involved in the areas under investigation, including persons in responsible high-[illegible] management positions in the Company. As the staff notes in its comments on the GPU plan:

> If restart is approved prior to completion of the various investigations, the possibility exists that subsequent investigations or court proceedings will produce negative information bearing directly on persons in responsible management positions. This might require further reorganization [of the licensee's organization] or shutdown [of the plant] . . .

The majority's endorsement of the GPU plan amounts to an assumption either that the investigations when eventually completed will find no wrongdoing by the TMI-1 organization other than the former TMI-2 operators, or that any wrongdoing will reflect only on a few individuals and will not call into question the overall management integrity of the TMI-1 organization. At the present time, the information available to the Commission simply does not support such an optimistic assumption. Indeed, as the NRC staff notes, there is every possibility that the investigations will lead to the opposite result. Given this state of affairs, I cannot support the majority's restart plan or the wishful thinking that underlies it.

As I mentioned at the outset, there are conditions under which I could support restart of TMI-1 prior to the completion of the criminal proceedings and the NRC investigations. One acceptable option would be to bring in an outside organization, with an established record of competence and integrity in the operation of commercial nuclear power plants, to manage the operation of TMI-1.

A second option would be the removal, until the completion of the NRC investigations and any subsequent hearings that may be required, of the remaining individuals in the GPU TMI-1 organization who are potentially involved in the matters under investigation. Like Commissioner Gilinsky, I would pay particular attention to those individuals in responsible management positions. In the years since the Three Mile Island accident, the Commission has repeatedly stressed the critical role of management in the safe operation of nuclear power plants. It is most unfortunate that, when put to the test, the Commission has failed to sustain this principle with its actions.

QUESTION 46. THE INDICTMENTS RETURNED AGAINST METROPOLITAN EDISON NAME IT ALONE AS HAVING ENGAGED IN ALLEGEDLY CRIMINAL CONDUCT IN VIOLATION OF FEDERAL LAW. THESE VIOLATIONS POSSIBLY INCLUDED THE INTENTIONAL FALSIFICATION OF LEAK RATE REPORTS AND THE SYSTEMATIC FAILURE TO REPORT THESE TEST RESULTS TO THE COMMISSION. TO THE BEST OF YOUR KNOWLEDGE, IF THESE LEAK RATE REPORTS HAD BEEN SUBMITTED TO THE NRC AS REQUIRED BY LAW, WOULD THE NRC HAVE TAKEN ACTIONS TO SHUT DOWN THE PLANT?

ANSWER.

THE TMI-2 OPERATING LICENSE TECHNICAL SPECIFICATIONS DURING THE PERIOD IN QUESTION REQUIRED THE LICENSEE TO PERIODICALLY PERFORM CALCULATIONS TO DETERMINE REACTOR COOLANT SYSTEM LEAK RATES. IF A RESULTANT CALCULATED LEAK RATE EXCEEDED A MAXIMUM VALUE OF ONE GALLON PER MINUTE FOR UNIDENTIFIED LEAKAGE AND TEN GALLONS PER MINUTE FOR IDENTIFIED LEAKAGE, THEN THE TECHNICAL SPECIFICATIONS REQUIRED THAT THE LICENSEE EITHER REDUCE THE LEAK RATE TO WITHIN ACCEPTABLE LIMITS WITHIN FOUR HOURS, OR SHUT THE PLANT DOWN WITHIN THE NEXT SIX HOURS. FAILURE TO COMPLY WITH THE TECHNICAL SPECIFICATIONS WOULD HAVE BEEN A VIOLATION OF NRC REQUIREMENTS, AND THEREFORE SUBJECT TO ENFORCEMENT SANCTIONS. DETERMINATION OF NRC ENFORCEMENT SANCTIONS IS MADE USING THE NRC ENFORCEMENT POLICY, 10 CFR PART 2, APPENDIX C. THE POLICY PROVIDES FOR A RANGE OF ACTIONS, INCLUDING SHUTDOWN ORDERS.

QUESTION 47. THE NRC HAS PROPOSED TO "SEPARATE" INDIVIDUALS FROM NUCLEAR OPERATIONS OF GPU IF THEY ARE FOUND TO HAVE COMMITTED CRIMINAL ACTS IN VIOLATION OF FEDERAL LAW. I AM PUZZLED AS TO WHY METROPOLITAN EDISON IS NOT SUBJECT TO BEING "SEPARATED"FROM SUCH OPERATIONS AS WELL, RECOGNIZING THAT NO NAMED INDIVIDUALS WERE INDICTED, BUT ONLY METROPOLITAN EDISON. ON WHAT LEGAL THEORY IS THE COMMISSION RELIEVING METROPOLITAN EDISON OF ITS CORPORATE RESPONSIBILITY FOR THE ACTS OF ITS EMPLOYEES? WHO IS TO BE HELD ACCOUNTABLE IN A CORPORATION IF NOT THE CORPORATE ENTITY ITSELF? HOW IS THIS THEORY CONSISTENT WITH ENCOURAGING PUBLIC CONFIDENCE IN THE ACTIONS OF THE COMMISSION AND THE INTEGRITY OF THE COMPANY?

ANSWER.

THE COMMISSION'S MAJORITY PROPOSAL TO SEPARATE SOME INDIVIDUALS FROM GPU'S NUCLEAR OPERATIONS IS CONTAINED IN THE COMMISSION'S JANUARY 27, 1984 MEMORANDUM FOR THE PARTIES TO THE TMI-1 RESTART PROCEEDING. THE COMMISSION STATED:

> THE COMMISSION HAS TENTATIVELY CONCLUDED THAT, IN PRINCIPLE, TEMPORARY SEPARATION FROM NUCLEAR OPERATION OF SOME GPU EMPLOYEES AND OTHER ACTIONS, INCLUDING THOSE PROPOSED BY THE LICENSEE, CAN SERVE AS AN INTERIM SOLUTION TO THE MANAGEMENT INTEGRITY ISSUES RAISED BY THE "OPEN ITEMS," PENDING RESOLUTION OF THOSE ITEMS. IN THIS REGARD, THE COMMISSION PRESENTLY BELIEVES THAT THE ONLY ONGOING INVESTIGATION WHICH MAY REQUIRE FURTHER RESOLUTION BEFORE A DECISION ON THE MANAGEMENT ISSUES IS THE UNIT 1 LEAK RATE INVESTIGATION. THE COMMISSION INTENDS TO OBTAIN ADDITIONAL INFORMATION REGARDING THAT MATTER BEFORE MAKING A RESTART DECISION.

> WITH REGARD TO SPECIFIC INDIVIDUALS, THE COMMISSION'S VIEW, BASED ON CURRENTLY AVAILABLE INFORMATION, IS THAT NEITHER CHAIRMAN OF THE BOARD WILLIAM KUHNS NOR PRESIDENT OF GPU HERMAN DIECKAMP WILL HAVE TO BE TEMPORARILY OR PERMANENTLY SEPARATED FROM NUCLEAR OPERATIONS PRIOR TO RESTART. THE COMMISSION MAY, HOWEVER, REQUIRE RESTRICTIONS BEYOND THOSE PROPOSED BY THE LICENSEE. THIS MAY INCLUDE REQUIRING THAT CERTAIN ADDITIONAL INDIVIDUALS BE SEPARATED FROM NUCLEAR OPERATIONS PENDING COMPLETION OF THE ONGOING NRC INVESTIGATIONS OF INTEGRITY ISSUES OR OF THE TMI-2 LEAK RATE CRIMINAL TRIAL.

THE COMMISSION EMPHASIZED THAT THE VIEWS IT WAS EXPRESSING WERE TENTATIVE, SUBJECT TO CHANGE BASED ON THE PARTIES' COMMENTS AND ON ANY IMPORTANT NEW INFORMATION, AND DID NOT AUTHORIZE RESTART. (COMMISSIONERS GILINSKY AND ASSELSTINE DID NOT AGREE WITH THE COMMISSION MAJORITY'S VIEW AND PLAN FOR A RESTART DECISION, AS EXPLAINED IN THEIR SEPARATE VIEWS ATTACHED TO THE JANUARY 27, 1984 MEMORANDUM.)

MORE RECENTLY, AFTER METROPOLITAN EDISON HAD PLEADED GUILTY TO ONE COUNT OF THE TMI-2 LEAK RATE FALSIFICATION INDICTMENT AND NOLO CONTENDERE TO SIX OTHER COUNTS, THE COMMISSION EXPLAINED TO CONGRESSMAN UDALL:

> THE COMMISSION HAS GIVEN CAREFUL CONSIDERATION TO THE RELEVANCE OF POSSIBLE LEAK RATE FALSIFICATION AT TMI-1 AND TMI-2. WITH REGARD TO THE TMI-2 LEAK RATE FALSIFICATION, WE FIND THIS NO LONGER RELEVANT BECAUSE THE GPUN ORGANIZATION WHICH I WOULD ENVISION OPERATING TMI-1 IS A NEW AND DIFFERENT ORGANIZATION THAT HAS REPLACED MET-ED; IT CONTAINS A NEW, EXPANDED BOARD OF DIRECTORS, A NEW PRESIDENT AND VICE PRESIDENT AND WOULD NOT INCLUDE INDIVIDUALS IN THE TMI-1 OPERATING STAFF WHO WERE INVOLVED IN THE OPERATIONS OF TMI-2 AT OR BEFORE THE TIME OF THE ACCIDENT, WITH ONE POSSIBLE EXCEPTION ON WHOM WE WILL SEEK MORE INFORMATION.

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* SUBSEQUENT TO THE JANUARY 27 MEMORANDUM, MR. DIECKAMP RESIGNED HIS POSITION AS CHAIRMAN AND CHIEF EXECUITVE OFFICER OF GPU NUCLEAR CORPORATION.

> WITH REGARD TO POSSIBLE TMI-1 LEAK RATE FALSIFICATION, WE HAVE TAKEN THE VIEW THAT WE NEED FURTHER INFORMATION ON THIS MATTER. OUR OFFICE OF INVESTIGATIONS WILL PRESENT US WITH ITS FINDINGS, WHICH WILL BE FULLY CONSIDERED IN OUR DECISION.

LETTER FROM NUNZIO J. PALLADINO TO THE HONORABLE MORRIS K. UDALL, MARCH 15, 1984.

SUBSEQUENT TO THIS LETTER, OUR OFFICE OF INVESTIGATIONS COMPLETED ITS TMI-1 LEAK RATE INVESTIGATION AND CONCLUDED THAT THERE WAS NO SYSTEMATIC PATTERN OF FALSIFICATION OF LEAK RATE SURVEILLANCE TESTS AT TMI-1 PRIOR TO THE ACCIDENT. OI ALSO CONCLUDED THAT IT COULD NOT PROVE THAT ANY INDIVIDUAL OPERATOR KNOWINGLY AND WILLFULLY ATTEMPTED TO MANIPULATE LEAK RATE SURVEILLANCE TEST RESULTS.

COMMISSIONER GILINSKY ADDS:

METROPOLITAN EDISON (THE CORPORATION WHICH HELD THE TMI-1 LICENSE AT THE TIME OF THE ACCIDENT AND WHICH PLEADED GUILTY TO ONE CRIMINAL COUNT AND NOLO CONTENDERE TO SIX OTHERS) AND GPU NUCLEAR (THE COMPANY WHICH NOW HOLDS THE TMI-1 LICENSE) ARE BOTH OPERATING SUBSIDIARIES OF THE GPU CORPORATION AND ARE BOTH ULTIMATELY CONTROLLED BY THE SAME GROUP OF PERSONS. IN MY VIEW, THERE IS NO LEGAL RATIONALE FOR THE COMMISSION'S DECISION NOT TO ENFORCE THE PROVISIONS OF THE ATOMIC ENERGY ACT AND HOLD THE COMPANY RESPONSIBLE FOR ITS CRIMINAL ACTS.

QUESTION 48. HOW IS THE COMMISSION ABLE TO CONCLUDE PRIOR TO THE RESULTS OF THE CRIMINAL TRIAL WHETHER OR NOT METROPOLITAN EDISON HAD A POLICY OF FALSIFYING LEAK RATE REPORTS, AS THE INDICTMENT IN THE CASE READS? IF MET ED DID HAVE SUCH A POLICY, HOW WOULD THAT AFFECT THE JANUARY DECISION TO CONSIDER RESTART INDEPENDENT OF THE ONGOING CRIMINAL TRIAL AND THE MANAGEMENT INTEGRITY OPERATIONS CURRENTLY UNDERWAY IN THE COMMISSION ITSELF?

ANSWER.

SEE ANSWER TO QUESTION 45.

QUESTION 49. THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) RECENTLY RELEASED FINDINGS SHOWING SERIOUS DEFICIENCIES IN THE EMERGENCY RESPONSE FUNCTIONS IN THE AREAS SURROUNDING THREE MILE ISLAND. IN ITS LATEST DECISION ON RESTART, THE NRC SPECIFICALLY NOTED IT WOULD CONSIDER SUCH "IMPORTANT NEW INFORMATION" IN ITS RESTART AGENDA. WHAT IMPACT HAVE THE FEMA FINDINGS HAD ON THE RESTART DECISION, AND HOW DOES THE NRC PLAN TO ADDRESS THESE SERIOUS SAFETY DEFICIENCIES?

ANSWER.

WITH REGARD TO FEMA'S FINDINGS, THE COMMISSION IS STILL EVALUATING THE SIGNIFICANCE OF THOSE FINDINGS. THE COMMISSION WILL ADDRESS THIS MATTER FURTHER AFTER IT HAS COMPLETED THAT EVALUATION.

THE FEMA REGION III FINDINGS AND THE STATE'S RESPONSE AND SCHEDULE OF CORRECTIVE ACTION ARE BEING REVIEWED BY FEMA HEADQUARTERS IN ORDER TO PROVIDE NRC WITH AN EVALUATION OF SIGNIFICANCE. SUBSEQUENT NRC ACTIONS ARE CONTINGENT ON RECEIPT OF THAT EVALUATION. DISCUSSION WITH FEMA MANAGEMENT INDICATES THAT THEY EXPECT TO HAVE A SCHEDULE FOR RESOLUTION

OF THE TMI OFFSITE DEFICIENCIES BEFORE THE PROPOSED JUNE 1984 COMMISSION REVIEW DATE FOR UNIT 1 RESTART.

FISCAL YEAR 1985 BUDGET REVIEW

MONDAY, FEBRUARY 27, 1984

U.S. SENATE,
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS,
Washington, D.C.

The committee met, pursuant to notice, at 10:05 a.m., in room 406, Dirksen Senate Office Building, Senator Robert T. Stafford (chairman of the committee) presiding.

Present: Senators Stafford, Chafee, Abdnor, Humphrey, Evans, Randolph, and Baucus.

CORPS OF ENGINEERS

OPENING STATEMENT OF HON. ROBERT T. STAFFORD, U.S. SENATOR FROM THE STATE OF VERMONT

Senator **STAFFORD**. The Committee on Environment and Public Works will please come to order.

This is a hearing on the budget submission for the Army Corps of Engineers, and Hon. William R. Gianelli, Assistant Secretary of the Army for Civil Works, is the witness.

Mr. Gianelli, we welcome you here. We would be pleased if you might take the witness table, and if you have any senior associates you wish there, we would be glad to have them there, too.

For the record, Mr. Secretary, would you introduce your associates.

Mr. **GIANELLI**. Yes. Shall we proceed, Mr. Chairman.

Senator **STAFFORD**. Yes.

Mr. **GIANELLI**. Very well.

Senator **STAFFORD**. You might proceed in any way you wish. We have your full statement. We will place it in the record and we will leave you the option of reading it or summarizing it and making any other statements you wish to, Mr. Secretary.

Mr. **GIANELLI**. Mr. Chairman and Senator Abdnor, what I would like to do with your permission is to have the full statement introduced into the record, and then briefly comment on part of the statement.

Senator **STAFFORD**. That would be exactly what the committee would prefer.

STATEMENT OF WILLIAM R. GIANELLI, ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS), ACCOMPANIED BY MAJ. GEN. JOHN F. WALL, DIRECTOR OF CIVIL WORKS AND BORY STEINBERG, CHIEF OF PROGRAMS

Mr. GIANELLI. Mr. Chairman and members of the committee, I have with me here the Director of Civil Works, Maj. Gen. John Wall, on my right, and the Chief of Programs of the Corps, Mr. Bory Steinberg, on my left. They both will assist in presenting testimony and answering any questions which the committee may have following our presentation.

As you indicated, Mr. Chairman, the full statement will be part of the record, but I would like to hit a couple of the points which I think are the main parts of the presentation. I might say also that, as requested in the committee's letter of February 23 to me, the full statement addresses the six areas specifically mentioned in the committee's letter of February 10. We are responding separately to the eight additional questions which were attached to the February 10 letter. A copy of the responses will be appended to the full statement for inclusion in the record of this hearing. (See p. 426.)

FISCAL YEAR 1985 BUDGET REQUEST

The table which we have submitted with the statement[1] compares by appropriation account, the Civil Works budget for 1985 with the amounts appropriated for the current year, fiscal year 1984, and appropriated and actually obligated in fiscal year 1983. The net fiscal year 1985 budget request for the Civil Works program totals $2.491 billion. This net request takes into account offsetting receipts of some $233 million. The $233 million is, in large part, an indication of the revenue which could be generated if some reasonable level of cost recovery is enacted to cover a portion of the costs of deepwater ports, inland waterways, and corps recreational facilities. The gross request thus amounts to $2.724 billion, which is about 3 percent above the fiscal year 1984 appropriation.

FUNDING OF MAJOR PROGRAMS

The "Construction, General" request of $874 million will maintain a no-delay ongoing construction program. The number of ongoing construction projects continues to decline as projects are brought on-line and in the absence of new starts. With adjustments for completions, the project count has dropped from the 139 being funded in fiscal year 1984 to the 120 projects proposed for funding in fiscal year 1985. The new construction starts for which funds are being requested in the budget are discussed later on in my statement.

This year, like last, the budget request for "Operation and Maintenance, General" is the largest among all of the appropriations requests. At $1.297 billion, the fiscal year 1985 request is about 9 percent above last year's appropriation. Overall, this budget request, we believe, provides sufficient funds for the continued operation and maintenance of our projects, including shallow-draft and deep navigation projects and the inland waterway system.

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[1] Retained in committee files.

The general investigations account is budgeted at a level comparable to that recommended last year. The request of $118 million continues to emphasize funding those studies and engineering efforts most likely to result in the early construction of regular corps projects. Included in the fiscal year 1985 budget is the $2.9 million to fund the Federal share of the first year's work on 21 feasibility phase studies. These feasibility phase studies are follow-ons to some of the reconnaissance phase studies funded at full Federal expense in fiscal year 1984. Also budgeted is $20 million for the continuation of the planning and engineering on 36 projects, including 3 new starts, and $7 million for 15 ongoing projects and 2 new starts under the Advance Engineering and Design program.

PROPOSED NEW CONSTRUCTION STARTS

The fiscal year 1985 budget provides for 14 new construction starts with a total cost of $631 million. Funds totaling $32 million are budgeted in fiscal year 1985 to finance the second-year requirements of the 12 projects which we proposed in fiscal year 1983 and fiscal year 1984 budgets, and $3 million is budgeted to finance the first-year requirements of two new starts for fiscal year 1985. The financing and cost-sharing of all 14 new construction starts are consistent with the policy announced by the President recently. I urge the committee to support start of construction by the corps in fiscal year 1984 of the 12 fiscal year 1983–84 new starts, in accord with the agreements which have been negotiated with the local project sponsors. Again, Mr. Chairman, if the Congress and the administration agree on cost-sharing arrangements which are different from those negotiated, we will certainly adjust those negotiated to conform to the new arrangements.

ITEMS COVERED IN FULL STATEMENT

Included in my statement, but not discussed because of time, are comments on specific aspects of the Civil Works program. I refer to comments with respect to manpower and the pay raise supplemental for fiscal year 1984; the Grace Commission report; to a very important subject and a concern of ours, ocean disposal of dredged material; and some comments with respect to our progress on regulatory reform, which has been one of our major efforts in the last 3 years.

MOUNT ST. HELENS

The corps responded quickly and effectively to the crisis created by the eruption of Mount St. Helens. During the last 3½ years the Corps of Engineers has expended over one-third of $1 billion in order to minimize damage and property losses, facilitate recovery, and provided continuing protection in those areas adversely affected by the extraordinary conditions. The experience of the last year have been less severe and we have been able to focus our attention on the long-range management and protection of this area.

The comprehensive plan was completed and submitted to the President on November 10, 1983. It has been widely distributed, and interested parties have had an opportunity to present their views both at public meetings and in writing. We are presently reviewing the comments that were received by the corps. Clearly, elimination of the danger from a possible failure of the debris dam at Spirit Lake is of the highest priority. Accordingly, a final decision on the appropriate outlet for the lake will be made. As a matter of fact, Mr. Chairman, and I know Senator Evans would be interested in this, I signed a letter to Senator Hatfield and Congressman Bevill just before I left the office, giving the go-ahead to the corps to proceed with a design in connection with alternative F, as I recall, as it has been identified. This is a tunnel to the west would drain into Cold Water Creek, and a letter will be sent to the Governor later today indicating that decision also.

Detailed planning is underway to better define the alternatives for the construction of retaining structures on the Toutle River. The feasibility report is scheduled to be completed later this year, and I have briefed Senator Evans, Senator Gorton, Senator Hatfield, and Congressman Bonker earlier last month with respect to this entire issue.

Mr. Chairman, that completes my prepared statement. If there are any questions which the committee may have, either General Wall or Mr. Steinberg will be available to assist in responding to those questions.

USER FEES

Senator STAFFORD. Thank you very much, Mr. Secretary. I do have one or two questions. Let me start by saying that in your statement you refer to the budget's $233 million in offsetting revenue as reflecting a "reasonable level of cost recovery" on navigation and recreation. Does the administration still consider user charges an important component of its program?

Mr. GIANELLI. Yes, they do, Mr. Chairman, and I think we are highly encouraged by the legislation that is pending both in the Senate and the House now with respect to user fees. The amount that we have included does not represent any specific program but does represent, we believe, a reasonable level of return for user fees. It's considerably less than the administration proposed 2 years ago, as perhaps the chairman will remember, but we do think that it is a reasonable figure to assume that we can expect in the way of user fees.

Senator STAFFORD. All right. Thank you.

NEW START POLICY

Would you explain to us, Mr. Secretary, the new start policy that is in the budget submission?

Mr. GIANELLI. Yes. The President recently addressed a letter to a number of the Western State Senators announcing the administration's policy with respect to cost sharing, and if you could go through the statement in its entirety I think you would find the message that the President wanted to come out of that statement, that policy statement, is that the administration wants to be flexible with respect to the matter of cost-sharing and up-front financing.

As I say, I think we are all very hopeful that with the President's indication of a desire to be flexible on this subject and the Congress having measures before it at the present time, that perhaps in this session of the Congress, the administration and the Congress can come to some agreement with respect to cost-sharing arrangements. We have indicated, as I say with respect to the corps' program, continuation of the effort that we have had the last couple of years but with a clear indication that the assumptions we have made with respect to the new starts for the corps' projects can be modified and will be modified if the administration and the Congress agree to different types of formulas than we have assumed in the preparation of those new start proposals.

Senator **Stafford**. Thank you, sir.

WATERBURY DAM, VERMONT

I am going to place in the record, if there is no objection, a copy of a letter I wrote to you, Mr. Secretary, regarding safety problems at the Waterbury Dam in Waterbury, Vt.

[The letter referred follows:]

U.S. Senate,
Washington, D.C., February 10, 1984.

Hon. William R. Gianelli,
Assistant Secretary of the Army (Civil Works), Room 2E570, The Pentagon, Washington, D.C.

Dear Mr. Secretary: Thank you very much for taking the time this week to visit with my staff and then to discuss Waterbury Dam with me. You know that I believe this is an item of high priority, one that we must soon resolve so the Corps can move forward to make the needed repairs.

It is my understanding that we came to the following conclusions:

(1) The Corps agrees with the State of Vermont that, as a result of piping under, around, or through the dam, Waterbury Dam may pose a serious safety problem;

(2) The Corps has authority to proceed on any necessary repairs without further Congressional action, a position confirmed by your letter to me of last July 22;

(3) While the Corps remains uncertain at this time over whether a filter system, as suggested by TAMS and the State, will solve completely any piping problem, such work is likely to be a component of any responsible long-term structural solution;

(4) While a final decision must await the report of the Baltimore District Engineer, the Corps will begin to design the filter system mentioned above in order to move as rapidly as possible should that review show that such work is prudent; and

(5) Our mutual goal is to have any construction work that may prove necessary for action in the 1985 construction season.

My thanks again for your careful attention to this matter, which holds such importance for the people of Vermont.

Sincerely,

Robert T. Stafford, *U.S. Senator.*

Senator **Stafford**. On the basis of our earlier conference and that letter, let me ask you this: First, does the corps have the capability now to begin engineering work on a filter system to prevent piping through Waterbury Dam, should further studies show such a filter is a necessary safety procedure?

Mr. **Gianelli**. Well, Mr. Chairman, you will recall that this was the subject, as you indicated, of a conference here within the last 2 or 3 weeks with your staff concerning the corps' effort on Waterbury. The present plan is to expedite the installation of additional instrumentation so that the corps can monitor and try to identify specifically where the seepage might be occurring. Hopefully we will have that additional work done, the monitoring done or the installation of the additional equipment in place, by about the first of May. Following that we should be able to evaluate, hopefully with more preciseness, the exact source of that seepage. Then, the corps should be in a position to proceed very promptly with the design of whatever is necessary to take care of that problem, Mr. Chairman.

CONSTRUCTION TIMETABLE

Senator STAFFORD. So during the 1985 construction period, the corps will be ready to take whatever action is found to be necessary?

Mr. GIANELLI. Yes. Our plan, and we hope our timetable, is that we would have the additional monitoring underway beginning in about May, and that by this fall we would be in a position to further identify what remedial steps are necessary. Then in the 1985 budget with the funds provided there, the corps could proceed with whatever designed remedial measures would be necessary.

Senator STAFFORD. Let me be sure about this, Mr. Secretary. My understanding was that, based on whatever we find or you find in May and the summer of this year, that you would be ready in the 1985 construction season to begin construction of whatever is necessary. Am I correct in that?

Mr. GIANELLI. That's correct, Mr. Chairman.

Senator STAFFORD. All right, thank you very much.

PENDING LEGISLATION

Now, as chairman of the full committee I am delighted that the chairman of the subcommittee most involved here, the committee's expert on matters affecting the Army Corps of Engineers and the Senator to whom I am most indebted and grateful for all of the hard work he has done in the last 3 years, Senator Abdnor, I am going to yield to you at this point. I am also delighted to see that Senator Evans, who is a new member of our committee, is here with us also. Senator Abdnor?

Senator ABDNOR. Thank you, Mr. Chairman, for those kind words. Water is the subject we are all very interested in, and I am happy that it is getting so much attention and appreciate the high priority you give it, Mr. Chairman.

You know we are working on a water bill we hope to get out of here for the first time in 7 years. There are two bills pending in the Congress. You made reference to the House bill, which is H.R. 3678, and our S. 1739.

I think the President has established the administration's water policy in his letter to Senator Laxalt. I'm sure you are quite familiar with that now. Do you suppose we will be able to count on the administration's support in moving S. 1739 through Congress in a responsible and acceptable form? I'm sure the administration's active involvement would be extremely helpful, and I am hoping we can count on it.

We have brought that bill out of committee, but I have been trying my level best to make sure we give everyone a chance to be heard. We have had a number of private meetings with water users. I have even held added hearings. We came back and had 2 days of hearings to give everyone an opportunity, if they had something new, to present it. We think we are getting close to some kind of a consensus. I think more and more of those who objected to features of the bill are commencing to realize that some of these steps just have to be taken.

I am just wondering, are we in line with the administration's thinking, in your judgment?

ADMINISTRATION'S POSITION

Mr. GIANELLI. Well, Senator Abdnor, let me say this: The administration is certainly very encouraged by the progress that your committee has made with respect to the subject of cost-sharing. I think probably we are not able to say at the present time that we endorse the bill exactly in its present form, but certainly much of the material that is in there the administration is very much in favor of.

I would assume that at some appropriate time there will be dialogue between the administration and the Congress generally with respect to what would be acceptable specifically to the administration, so I don't think we are in a position right now to support the bill exactly in its present form, but certainly the administration is very encouraged by the progress that your committee has made.

NEED FOR AGREEMENT

Senator ABDNOR. I appreciate that, Mr. Secretary, but the time is going to come in the near future when we've got to know whether we're on the same beat with the President and the administration. We've got a lot of selling to do before we are finished. We've got a lot of negotiating to do with the House side. I am interested in knowing how the administration feels about that. I think it would be important to the progress we are able to make. You and I both know this year is going to be short for legislation.

I have a tentative date when our bill will come up on the floor and when it does I am hoping to have the controversies settled and reach some kind of an agreement. It's going to make all the difference in the world to know that the administration can accept that bill and will accept it, or what they need to do to make it acceptable. I think we have come a long way. We're talking about things you didn't even discuss a year or two ago, thanks to you. From the time you have come in here, you have kept pushing the water users' fee. I do look forward to that.

I have a whole host of questions that I will submit to you in writing because some of these questions would be a lot easier for you to answer if we did do that, so I think I will just let it go with that.

GREGORY COUNTY PUMPED STORAGE PROJECT

I am going to be parochial here and ask you a question regarding my State. I am sure by this time you are familiar with the big project we are talking about in South Dakota, the Gregory County pumped storage project.

Governor Janklow in the State of South Dakota has been working to put together the necessary group of utilities to finance construction of the proposed Gregory County pumped storage hydroelectric power project. Some of the public power users are skeptical, however, and would prefer, of course for Uncle Sam to fund the project in its entirety.

What do you believe are the chances of funding construction of the Gregory hydropower project entirely from the Federal Treasury, and do you believe the project can be built without substantial non-Federal funding?

Mr. GIANELLI. Senator, as I recall the cost estimate for the Gregory County project, it's a very large, very expensive one, I think in excess of a billion dollars in terms of cost.

Senator ABDNOR. It is; yes.

Mr. GIANELLI. It seemed to many of us that, looking at a project of that magnitude where there are substantial power benefits that will be derived, it makes a lot of sense for this project to try and work out an arrangement with non-Federal interests to assist in the financing of the project. I think the President's statement indicates some flexibility, perhaps, over what we were talking about earlier, but still with a project of that magnitude it seems to me if you wait for the Federal Government to fund the entire project, you're going to have to wait an extremely long time in the light of the priorities of other projects, for example, that might be also pending and also in the light of the very high cost of it. Therefore, I would say that if that project is going to proceed in the very near future, I think you are going to have to rely on substantial non-Federal assistance in order to get that project constructed.

Senator ABDNOR. Well, thank you. This must be one of the larger hydropower projects.

Mr. GIANELLI. It's one of the larger projects. Let me speak to the public power issue, if I could, just a moment. I think the problem that we have with power projects generally now is that the most feasible hydroelectric projects in the country have been built, and so what we have left are the projects that are very marginal. If we're not going to be able to get a high value for the power received from the potential facilities that would be constructed, I don't think that we're going to be able to show that these projects are feasible and I doubt very much that they will be built. Therefore, I think one of the problems we face, perhaps, with Gregory County and others is that either you're going to have to go ahead under a partnership arrangement or they are just not going to go ahead, at least for a very long period of time.

Senator ABDNOR. I guess of all the hydropower projects we are talking about, this is one of the better but, as you say, a very expensive project. What kind of outside participation do you think we would have to have to make it a possible project for consideration?

Mr. GIANELLI. Well, I think part of it depends, Senator, on the institutional arrangements that could be worked out with the non-Federal interests. It also depends upon their own capabilities with respect to contracting arrangements, their ability to finance and to raise, to sell bonds on their own. Therefore, I think absent more detailed information with respect to the entities with whom the State would be dealing, I don't know that we could say exactly what would be appropriate in terms of a non-Federal contribution at this time, but I think it's going to have to be substantial.

Senator **Abdnor**. Well, thank you.

Senator Evans.

CONSISTENCY IN COST SHARING

Senator **Evans**. Mr. Secretary, I have a couple of questions on the cost-sharing programs, which incidentially I think is a proper and an appropriate direction and one which I certainly intend to support. Obviously that carries with it the caveat of the particulars that we come to.

Do you have a consistent arrangement now in the projects you are negotiating for? You say that you are negotiating cost-sharing arrangements which then could be modified to make them consistent with whatever act we may pass. Are you using a standard formula for each of those negotiations?

Mr. **Gianelli**. What we did, Senator, in our guidance that we gave to the field who negotiated or were involved with some of these projects, was to indicate some parameters which we thought they should use, for example, for consistency purposes. However, we have also indicated at the same time that we are very willing, the administration is very willing to modify any arrangements that might be worked out with those people on the basis of the guidance we have given, if in fact the Congress and the administration arrive at something different in the way of percentages that should be contributed.

Senator **Evans**. I understand.

Mr. **Gianelli**. Perhaps, could I give you an example?

Senator **Evans**. Sure.

Mr. **Gianelli**. For example, we asked the field to use the assumpition on flood-control projects that there should be a non-Federal contribution of 35 percent. Now that 35 percent is a figure which perhaps under the present arrangement might be reached with some projects where the lands, easements, and rights-of-way are very expensive. Under the present law, for example, non-Federal interests would pay the costs of lands, easements, rights-of-way, and relocations so if you have a flood-control project that goes through an area that is highly urbanized, for example, the cost of lands, easements, rights-of-way, and relocations very well may be, under the present law, more than 35 percent. On the other hand, it might be much less. Therefore, we have suggested that the corps use that figure in their negotiations with local interests, with the full understanding, again, if the administration and the Congress agree to something different, we will modify it.

Now under the bill that is pending in the House, my understanding is that the percentage which the House is suggesting in its omnibus bill requires a 25- and 30-percent contribution from local sponsors. Therefore, I guess what I am trying to say is, for the lack of some specific guidance we have asked the corps to use certain figures, but with the full understanding that those would be revised if, for example, the administration and the Congress arrive at some different figures on cost-sharing.

Senator **Evans**. Do you have a different parameter for each type of project, then? You mentioned flood control and the 35 percent. Are they varying percentages depending on the type of project?

Mr. **Gianelli**. Yes, they do, Senator. We have said, for example, I think present law requires, for example, users of municipal/industrial water supplies and also hydropower to pay 100 percent of the share that is allocated to those purposes, and we are still, of course, maintaining that, so those would be no difference.

We have also said with respect to irrigation that cost sharing ought to be 35 percent, although here again I think the corps has very little irrigation with respect to its projects. That's largely reclamation, the reclamation program, so we haven't considered whatever is done in irrigation really to be a very big problem for the corps. I think Secretary Clark recently, in accordance with the President's letter, has indicated that with respect to irrigation they will look at these on a case-by-case basis.

ESTIMATES OF OFFSETTING RECEIPTS

Senator **Evans**. Are your estimates of income that you had in your statement based on these parameters that you have identified, or are they based on a lower figure?

Mr. **Gianelli**. The estimates of income are based solely on the income that we would receive from any cost-sharing arrangements for the deepwater port system and the inland navigation system. It doesn't have anything to do with the other uses that we have just been discussing. In terms of what we have assured in our budget, we have assumed certain user fees on the inland navigation system and deepwater port system, and that is the figure that we have used in connection with our budget preparation. We haven't used anything else.

Senator **Evans**. OK, and that income is based on the administration's proposal in this field, or do you have a specific proposal?

Mr. **Gianelli**. It is not based on a specific proposal, Senator, no. I think we had a proposal here a year or so ago which would have provided for a higher amount of return, but I think this lower figure indicates again the President's flexibility in this area. What we have assumed this time is much less than we assumed 1 year ago with respect to our budget at that time, and it is not supported by any specific proposal.

Senator **Evans**. Could you get for us how you arrived at that figure, so we know how that relates to what we are discussing here?

Mr. **Gianelli**. It's somewhat arbitrary, Senator, as discussions with the Office of Management and Budget have indicated, and represents a reasonable figure which they had hoped would come out of any discussions with respect to cost-sharing our port and inland navigation systems.

Senator **Evans**. So there isn't any particular project-by-project formula?

Mr. **Gianelli**. No, there is not any specific formula.

Senator **Evans**. To the degree we negotiate cost-sharing operations on new projects, then, that would be additional income or reduction in expense over anything that you have anticipated here.

Mr. GIANELLI. Yes, it would, Senator.

PROJECT IMPLEMENTATION BY BENEFICIARIES

Senator EVANS. This, perhaps, is a question I am going to get to a little later, and aside from the current budget hearings. I had some of people from our own State come in seeking support for some projects, and they were very pleased that some of those projects had a benefit-cost ratio of 2.4 to 1. My question to them was: "Well, if it's that beneficial, why don't you go ahead and do it?" If there is that much benefit out there, somebody must be the beneficiaries, and why shouldn't they act to get the project done on a local basis rather than coming to the corps.

Of course, I knew what the answer was before I asked the question, but to what degree do you do your surveys and studies and, when you get to a point where you can identify particular identifiable local beneficiaries who would have the ability to hlep finance, do you say: "This is a project which is eminently feasible and it's has a very good cost-benefit ratio, but the benefits are so great and they are identifiable and the Government ought not to be involved."

Mr. GIANELLI. Well, I think that happened, Senator, with respect to a project we had in Alaska. We developed on a hydro project up there a proposal with the State of Alaska, and the State finally said the project looked so good that it came in last year and had the project deauthorized. It was a Federal project. They had it deauthorized and now they are going to go ahead and construct it on their own, so I think we are encouraged by this and we have had two or three others that we had included in our new start program that have come along and said: "look, we just can't afford the delay. The benefits are there. It has a very high benefit-cost ratio, and we are going to go ahead and try and proceed on our own." We think that is a very healthy situation.

Senator EVANS. Well, I do, too. I hope that continues.

PERMANENT SOLUTION FOR SPIRIT LAKE

There are a couple of question on Mount St. Helens. I was pleased to hear your announcement on procedure, and I expect that will be suitably publicized here pretty quickly.

Mr. GIANELLI. Yes, the letters will be delivered this morning, and we are trying to get in contact with the Governor's office as soon as they open up out there, and we will inform the Governor.

Senator EVANS. The Governors are back here.

Mr. GIANELLI. That's correct. He is, isn't he? We could probably run him down here much easier.

Senator EVANS. Right.

Mr. GIANELLI. But I think everyone will be pleased with the way we are going ahead with a solution to Spirit Lake.

Senator EVANS. I know I am.

Mr. GIANELLI. The Governor, it was one of his recommendations, and when we met with you and Senator Gorton, Congressman Bonker, and others, I think it was one of those which you preferred. With the corps additional work and surveys that it has carried on with respect to the alternatives, it has now concluded the alternative tunnel to the west and a discharge into South Cold Water Creek would be the preferable one to proceed on, and we are going ahead and authorizing the corps to proceed forthwith.

FLOOD CONTROL FOR COWLITZ RIVER

Senator EVANS. Good. On the other half, which is the retention structure, it seems to me from our meeting, you had indicated that you felt there was additional authorization required before proceeding on that specific structure. I looked up the authorization statement in the current bill and it seems to me from reading it that it is broad enough to provide authorization when it says—

> You are hereby authorized—

And leaving out some words, obviously, but it seems to me the key words are—

> authorized to implement and maintain flood control measures by dredging or other means determined by the Secretary, needed to provide against a 100-year flood on the lower Cowlitz River and to reduce sedimentation flow and the chance of blockage on the Columbia River. The authorization shall remain in effect until such time as permanent solutions are fully implemented.

Isn't that sufficient authorization to move?

NEED FOR AUTHORIZATION

Mr. GIANELLI. Well, we struggled over this, Senator, and asked the lawyers to take a good hard look at it, the language that you specifically referred to. The conclusion that they came up with was that the Spirit Lake effort could proceed without further authorization but the permanent solution with respect to the sediment would require specific authorization from the Congress. Now that's the conclusion we have from our lawyers with respect to that matter.

Senator EVANS. Could you get to me any brief or recommendation that they have made along that line, because it just seems to me that as a nonlawyer but as one interested in what the English language says, it seems to me quite clear that it would provide authorization and the ability to move ahead.

Mr. GIANELLI. Well, we are certainly doing the dredging, as you know, under that authorization.

Senator EVANS. I understand that, but it talks about dredging and other means, right up to a permanent solution.

Mr. GIANELLI. Let me say we will be pleased to give you a copy of the opinion on that, Senator, and then you can take a look at it or have your own attorneys look at if you care to.

SCHEDULE FOR IMPLEMENTATION

Senator EVANS. Good. To follow up on that, your current schedule, as I understand it, is to continue on with further studies during this year and to look ahead to next year at the beginning of your CP&E, and then move ahead from there. If we went ahead and authorized or if it was clear that there was some congressional indication that you had current authorization—are you prepared to use those fiscal year 1985 study funds on advanced engineering and design and move ahead and speed the process?

Mr. **Gianelli**. Yes; I think what the authorization would do, Senator, would be to allow the corps to go ahead, for example, in terms of land acquisition that might be needed for the permanent solution. But let me go back and review quickly for the record what the corps program is with respect to the sediment retention structures.

The corps, as we indicated to you, is proceeding with the final feasibility study and, at the same time, the preparation of the environmental impact statement, and we expect that that work will be completed by this fall. Then, normally, the project would be authorized and we would proceed to advance engineering and design. Now it might be possible to be proceed with the advance engineering and design prior to the time that the authorization actually is given to us by the Congress. The advance engineering and design, the corps tells us, will take about a year, so that could start even though the project is not authorized. I think the main thing that the authorization might do would be to save us a little time with respect to land acquisition, but I think in terms of the feasibility report and the environmental impact statement, that is going to take until this fall and then it is going to take about a year to design the facilities before we go ahead and prepare for construction.

Senator **Evans**. OK. Thank you, Mr. Chairman.

Senator **Abdnor**. Thank you. Senator Baucus.

EXPENDITURES FOR INLAND WATERWAYS

Senator **Baucus**. Thank you, Mr. Chairman.

Mr. Gianelli, could you tell me the actual costs the corps spent last year for construction, rehabilitation, renovation, and operation, and maintenance on inland waterways and harbors? What was the total for last year?

Mr. **Gianelli**. Could I get some help from Mr. Steinberg on that one?

Senator **Baucus**. OK. Roughly.

Mr. **Steinberg**. Senator Baucus, as I indicated on the 24th of January when I testified here, we had come up with an estimate of $658 million. Now in reviewing that figure very carefully and in reviewing the language, both in title V of S. 1739 and in the report, it becomes clear that perhaps there are other costs that should be included. On the other hand, there could be some that should be excluded, so the previous estimate that I testified of $658 million might be a little bit low. On the other hand, it might be right. What we need is some clearer definition, for example, on how to treat the Great Lakes and some of the east coast shallow-draft harbors and waterways.

Senator **Baucus**. Would that $658 million be about the same level for prior years as well?

Mr. **Steinberg**. Prior to 1983?

Senator **Baucus**. Yes; roughly during the period from 1980 to the present, on an annual basis, the total corps' cost.

Mr. **Steinberg**. I would have to check that, but it probably would be. The O&M would be less; the construction would be higher when we had some peak years, but I would have to get back to you on that.

Senator BAUCUS. Would you, please?
Mr. STEINBERG. Yes, sir. (See p. 401.)

RECREATION DEVELOPMENT AT COMPLETED PROJECTS

Senator BAUCUS. Second, a couple of questions about—I guess you call it code 710 recreation policy—is that the correct terminology?

Mr. GIANELLI. Yes, Senator. I think that has to do with the construction of recreation facilities on crops-completed projects.

Senator BAUCUS. That's correct. I asked the question because Missoula, Mont., is trying to renovate its waterfront; the downtown area. The Clark Fork of the Columbia goes through downtown Missoula. It's a classic case that towns that were built in those days tended to turn their backs on the rivers instead of opening up to the rivers, and now I think many towns in the country are recognizing that mistake and are trying to turn around and take advantage of the river, particularly the beauty of the river, with walkways and the like.

The trouble here is that when Missoula applied for its code 710 money, it found out that midstream the corps has changed its policy, so that now the corps is saying, "Okay, the corps will participate 50 percent so long as the city of Missoula pays for the other 50 percent and also provides all the O&M, as well as the O&M for other projects in the State of Montana up to the 50-percent amount that the corps contributed." Is that the correct policy?

Mr. GIANELLI. Yes; let me reflect a little on that. The Office of Management and Budget, Senator, has made it very clear that add-on recreation is not of the highest priority with respect to the administration's objectives, and have asked us where that is proposed that we be able to demonstrate that there is some savings in the operation and maintenance cost which would allow additional capital to be invested. In other words, their position, I assume, then is that if we are going to invest additional money with respect to completed corps projects for recreation, we would have to offset that by savings in operations and maintenance. Those are the instructions we have had from OMB.

Senator BAUCUS. Does that mean, then, that there is no money available under the 710 recreation?

Mr. GIANELLI. Under the 710, unless there can be some savings, and we have been able to work out—for example, with the State of South Dakota—arrangements whereby the State has been able to take over some of the recreation facilities, in return for which the Federal Government has worked with them on adding new facilities which they thought were necessary to make their recreation development viable. So your statement is essentially correct, and we have been able to work out some arrangements with some entities under those rules.

Senator BAUCUS. Well, the slight problem I have is the propriety of asking a city to pay for the O&M of some other project unrelated to that city, that is clear across the State of Montana. I just have a hard time understanding the propriety of that kind of a policy.

Mr. GIANELLI. Yes; and it doesn't work very well, I think, with the situation you describe because the local people are not involved with the operation and maintenance of any other corps project to begin with, as I recall. As you point out, the city is not near any other corps project.

Senator BAUCUS. I'm sorry?

Mr. GIANELLI. The city is not near any other project, for which the operation and maintenance could be readily shared.

Senator BAUCUS. That's right, they are a long way away. I don't know how to do this but it seems to me there is something to work out here because, as I understand it, this policy was changed in the middle of either the city's application or somewhere along the line after the city had already applied. Maybe your office and my office can work on that, but it just seems to me there is something we can do about that.

RESOLUTION OF CLAIMS ON MILITARY CONSTRUCTION

Finally, I would like to urge you, Mr. Gianelli, to look at a matter that is very important to me, and that concerns a constituent in the State of Montana. This constituent is a contractor and has had over 40 or 50 corps contracts over a period of years all over the country, in fact most of them outside the State of Montana. This contractor came to me because he is having trouble in the Forth Worth area. He has a perfect record with the corps, as I said, 40, 50, 60 contracts, and absolutely clean record, no problem at all, ever, either with the corps or anyone else.

Without going into the details, I can tell you that it is my impression that we've got a problem in the Forth Worth office or further on down the line somewhere in terms of personnel. I am asking my staff here now to give you a letter which I am writing to you, asking you to look into it. I think you will notice when you look at the accompanying letter from, I believe, the Forth Worth office—I'm not sure exactly where—you will find the tone of that letter is quite impolite. It is quite impudent in its tone and style, and frankly I think an outrageous way for any public official to conduct himself, and I hope that you will look into it.

That letter by implication says that I am intimidating the corps or that I am intervening in the corps. I wish, Mr. Gianelli, in some way I could. I frankly find the corps to be one agency that absolutely one cannot intimidate in any way whatsoever and, frankly, that is part of the problem, but if you will look at that letter and particularly the accompanying letter, I think you can tell by the tone of it that we've got a problem here. I would ask you to look at it so that we can work it out.

Mr. GIANELLI. We certainly will. General Wall, sitting on my right, is in charge of the corps' civil works activities. Since it appears as if the letter applies to the military program, other people are involved. However, we will certainly look into it and get back to you by letter.

PENDING LEGISLATION ON CODE 710 PROGRAM

Senator ABDNOR. Senator Baucus, I would just point out to you that we have a section 214 of our bill that prohibits the Corps of Engineers from requiring a non-Federal project assume the operation and maintenance responsibility of any recreational facility at an existing Corps of Engineers water resource project as a precondition to construction of new recreation facilities. I am sure that is in our proposed bill.

RANGE IN EXPENDITURES FOR INLAND WATERWAYS

Senator **Baucus**. OK. I appreciate that.

Referring to an earlier subject, Mr. Gianelli, could you also give the maximum and the minimum estimates for total cost last year? As I understand it, you said that maybe some items should be included and some items should not be included. Let's get the minimum and maximum estimates, if we could, please.

Senator **Stafford**. In the breakdown to be furnished, could you compare fiscal years 1983, 1984, and 1985 for the inland waterway system and for harbors?

Mr. **Gianelli**. Yes, we will, Senator. We will be pleased to get back to you.

Senator **Baucus**. Thank you. I appreciate it.

Thank you, Mr. Chairman.

[The information requested follows:]

Analysis for Inland Waterway Projects (S. 1739)
1980 Thru 1985 Expenditures-Subject to Cap
($ Million)

	Actual FY 1980	Actual FY 1981	Actual FY 1982	Actual FY 1983	Estimated FY 1984 2/	Estimated FY 1985 2/
O&M, General	227	243	255	277	291	321
Ongoing Construction, General (Includes Small Boat Harbors)	401	389	400	334	254	259
Major Rehabilitation	26	32	27	24	18	28
MR&T Appropriation (20% Factor)	42	48	51	60	60	61
Total Maximum Program 3/	696	712	733	695	623	669
Less Commercial Small Boat Harbor and Other River Segments Not Previously Included But Meets S. 1739 Criteria						
o O&M 1/	33	28	39	30	33 1/	33 1/
o Construction	9	9	9	7	3	3
Total Minimum Program 4/	654	675	685	658	587	633

1/ Estimated - A majority of these projects are periodically maintained based on actual shoaling conditions, assuming an average of $33 million being included for FY 1984 and 1985.

2/ Estimated expenditures.

3/ The maximum program contains inland waterway projects subject to the cap as contained in S. 1739. Small boat harbors and other river segments less than or equal to 14 feet in depth, not previously included in S. 1554, have also been added to this program. Additionally, the MR&T appropriation reflects a 20% recovery factor in lieu of the formula contained in S. 1554. No new start projects are contained in this program.

4/ The minimum program excludes small boat harbors and other river segments not defined in S. 1554 for recovery purposes.

Senator ABDNOR. Senator Humphrey. Senator Chafee.

CORPS WORK OVERSEAS

Senator CHAFEE. Thank you, Mr. Chairman.

Mr. Gianelli, we greatly admire the Corps of Engineers and particularly I have had a chance to see your work overseas, which has been so well received. Indeed, the reputation of the Corps of Engineers in Saudi Arabia, for example, is one of the shining facets of American activities in that country. The Saudis consider the Corps of Engineers as an organization that is both efficient and well-run and completely uncorruptible, and an organization that gives them their full measure of satisfaction for the dollars they put into it. I think that is a marvelous tribute to the Corps of Engineers.

Senator BAUCUS. Will the Senator yield on that point?

Senator CHAFEE. Yes.

Senator BAUCUS. I would agree with the Senator. I have been in Saudi Arabia in the last several years and seen the corps' operations there, too, and I was very impressed with it. I was also very impressed that the country of Saudi Arabia has such wealth that it virtually pays for all the salaries of all the corps personnel but for about two or three which are just prohibited by law for them to pay, and I just wish that we could have similar arrangements.

Mr. GIANELLI. That's right, Senator. That is full user charges.

Senator BAUCUS. That work is on a reimbursable basis. That's right.

Senator CHAFEE. I think it's a marvelous thing. I, for one, want to commend you for doing that, and I hope we continue. One, it builds up tremendous good will for your country. Secondly, it gives our people experience on these vast projects which they wouldn't necessarily get in the United States, because obviously the more you can practice what you are meant to be doing, the better off the people are. Has that been your experience?

Mr. GIANELLI. There's no doubt about it.

Senator CHAFEE. Those are the two principal reasons?

Mr. GIANELLI. Yes, Senator. Let me make one further comment which has been of great help to us. The military construction program of the corps has been gong up and the civil works has been going down, so it has enabled us to retain competent people and transfer them from one function to another, so I think it's extremely important.

Senator CHAFEE. I would hope we could continue doing that type of work. Are there other countries that we have a relationship with in any way similar to the Saudis?

Mr. GIANELLI. There are a number of them that the corps has relationships with. I'm not sure they are as extensive, for example, as in Saudi Arabia, but the corps is doing quite a bit of additional work overseas, and on a reimbursable basis, I might add, Senator. We can get a list of those projects if you would like.

Senator CHAFEE. Well, no. I don't want to go to a lot of trouble and get a lot of projects. Anyway, I think it is good, what you're doing.

RECOVERY OF EXPENDITURES FOR COMMERCIAL NAVIGATION

Now as you know—there's no need to preach to you on this subject, Mr. Gianelli—our principal concern in the Congress, I guess, if you could summarize it, is the concern over the deficit, so obviously we look at your budget and what you have requested and how you're comparing to last year. For example, last year your budget assumed about $450 million in user charges, and this year you are having an offset suggested of $200 million. I don't know whether that's just being more realistic. I take it you probably didn't get any of the $450 million, and the $200 million is still required by the enactment of legislation. Is that correct?

Mr. GIANELLI. That's correct, Senator.

Senator CHAFEE. So what caused you to lower your sights so substantially?

Mr. GIANELLI. I think perhaps a little realism, Senator, and also I think there is an indication, I believe, that the President is very anxious to work with the Congress on working out some satisfactory formula, so I think it is probably a combination of things.

CHANGES IN FUNDING CORPS PROGRAM

Senator CHAFEE. What is the baseline budget of the corps for this year? If you say this is the minimum that we can have, assuming no new projects; continuing the projects in progress; assuming that you've got a payroll to meet and people on it; and taking all that into consideration, what do you come to?

Mr. GIANELLI. Senator, we are responding to a letter and it will be delivered to the committee here shortly, and this is one of the questions, but let me just pick out a figure for you: In fiscal year 1985, if we had no new starts, the corps construction program would be $851 million, and that's compared with $874 million under the current program.

Senator CHAFEE. Well, I guess I'm really asking for the overall budget for the corps. As I understand it, last year the budget that was approved in 1984 was about $2.6 billion and the request this year is $2.724 billion. Am I correct in that?

Mr. GIANELLI. Yes. Could I have Mr. Steinberg, our budget man, answer that, please?

Senator CHAFEE. Sure.

Mr. STEINBERG. Senator, those exact numbers, the $2.649 billion was the actual 1984 appropriation and the $2.724 billion reflects the total budget request before the receipts which you mentioned earlier. Included in the $2.724 billion are only $23 million in new starts of any type.

OUTYEAR FUNDING OF NEW CONSTRUCTION STARTS

Senator CHAFEE. But it's fair to say that when you say $23 million for new starts, if you make a new start then next year you're locked in for a very substantially increased figure. Isn't that fair?

Mr. STEINBERG. In the normal course of events that would be true, but the new starts that we have in this year's budget do not create large outyear requirements. The two, for example, in construction are a small, relatively small flood control project in California, in which lands, easements, and rights-of-way will come to 50 percent; and the other project is converting a completed corps reservoir in Pennsylvania to add water supply, where the non-Federal sponsor is paying all but $2 million of the cost.

COST SHARING OF ONGOING CONSTRUCTION

Senator CHAFEE. Looking at the four biggest items that you've got in your 1985 budget, which are lock and dam 26, the Red River waterway, the Ray Roberts Lake, and the old river control structure in Louisiana, what's the non-Federal contribution to those, the cost-sharing arrangements, percentagewise or any other way?

Take lock and dam 26. There's a matter we wrestled with for years up here. What happens there? We spend approximately $90 million. Then what recovery do we get out of that?

Mr. **Steinberg**. Senator, the only recovery presently enacted into legislation is the fuel tax enacted in Public Law 95-502.

Senator **Chafee**. Which is something like $28 million a year, is it not?

Mr. **Steinberg**. In the present year it's 8 cents a gallon, which will generate about $39 million.

Senator **Chafee**. $39 million. Take the Red River waterway in Louisiana.

Mr. **Steinberg**. That is being constructed essentially at full Federal cost.

Senator **Chafee**. How the dickens do these things happen? I thought we had a system here—and I know you have been interested in it, Mr. Gianelli—that those most concerned were going to have some contribution to it. You and I have talked many times about the contribution for the studies. By the way, is that in effect now, the studies?

COST-SHARING OF STUDIES

Mr. **Gianelli**. Yes, we are. In the new studies that we're starting now, cost-sharing is in effect, Senator. You and I have talked about that before. The plan is that we will conduct a study in two parts, as you recall. The first part, a reconaissance level would be funded at Federal expense at about one-fifth the total cost, and then the remainder would be funded at 50 percent by the non-Federal and 50 percent by the Federal Government.

Senator **Chafee**. Now, have you done that, can you do that administratively?

Mr. **Gianelli**. We are doing it in terms of the programs we're planning; yes.

Senator **Chafee**. Well, that ought to be a great discourager of pie-in-the-sky projects, shouldn't it?

Mr. **Gianelli**. We think it will, Senator. We think that anytime that you ask people to contribute either part of the cost of the study or part of the cost of a project, it acts to separate out those projects which are not so feasible, so we're looking forward to it being a very effective screening device, yes.

Senator **Chafee**. But you haven't done it yet.

Mr. **Gianelli**. We're starting. We're just in the process of starting it.

Senator **Chafee**. I'm not trying to be critical, you've been here 3 years now, and why is it just starting, soon it will be in the fourth year?

Mr. **Gianelli**. I think one of the problems, Senator, that we have had—and let me address it, with respect to the Red River Waterway—the reason we are doing what we are doing for the project is because the Congress directed us to initiate construction of lock and dam No. 2, Senator. This element was not one that we put in, but I think that Congress made some very specific instructions to the corps to go ahead with this project and what to expend.

Senator **Chafee**. Now back to the studies, though.

Mr. **Gianelli**. Senator, as I recall in the language that we received from Congress, in the reports, there were restrictions on our going ahead with some of these arrangements, and the cost sharing of studies was one of them. We are proposing it in fiscal year 1985 again.

In other words, there were congressional restrictions which said that we should not implement some of these programs, and that was one of them as I recall.

Senator CHAFEE. So we run the same risk that that will be in the 1985 budget, too.

Mr. GIANELLI. Well, we would hope not.

Senator CHAFEE. Who put that in? I don't mean individually, but what committee did that come out of? Probably Appropriations Committee.

Mr. GIANELLI. It was the Senate Appropriations Committee.

OBSTACLES TO NEW START PROGRAM

Senator CHAFEE. Wouldn't you guess it? All right. Well, there is some fair danger that it will be there this time.

Mr. GIANELLI. Well, let me comment on that further. The new starts that we proposed in 1983 and 1984 that I alluded to, Senator, had substantial cost-sharing arrangements in them. The Congress put in lauguage, I think, through the appropriations process, that prohibited us from going ahead with those new starts on those cost-sharing arrangements until Congress had addressed the issue. So we have not been able to go ahead in our 1983 and our 1984 new start programs that we worked out with the local people because of language that is included in the appropriation items.

RAY ROBERTS LAKE, TEX.

Senator CHAFEE. What about Ray Roberts Lake? What's the cost sharing on that?

General WALL. That's an unusual lake, sir. It has a lot of cost-sharing for recreation. They transferred some water storage from a downstream lake up there, and that's in there too, so there is substantial cost sharing in the Ray Roberts Lake.

Senator CHAFEE. There is substantial?

General WALL. Yes, sir.

Mr. STEINBERG. It includes, Senator, if I may, cost sharing for both water supply and recreation.

Senator CHAFEE. By "substantial," roughly what would that be? Do you mean over a period of years?

General WALL. Well, the water supply would be totally paid back. The recreation is 50-50.

Mr. STEINBERG. The water supply, to the best of my recollection, is not up front. It's paid back over a long period of time.

TENNESSEE-TOMBIGBEE WATERWAY

Senator CHAFEE. How come we don't see the Tenn-Tom project in here?

Mr. STEINBERG. In the fiscal year 1984 appropriation bill, $180 million was designated for the Tenn-Tom. This was money that was proposed for deferral as a result of excess funds under the fiscal year 1983 CRA, because the construction program was coming down and the funding requirements were less than prior year obligations. As a result, the Congress directed that the excess money be applied to the Tenn-Tom project for fiscal years 1984 and 1985, by which time the facilities will be open to navigation.

Senator CHAFEE. Have you received any requests for studies south of Demopolis?

General WALL. I think there are some ongoing studies but anything to increase the navigation there would require an additional authorization, sir.

Senator CHAFEE. I see. Well, you have the regular studies just to keep it, but not to straighten it out.

General WALL. No, sir. That's correct.

Senator CHAFEE. Thank you, Mr. Chairman.

Senator ABDNOR. Thank you.

IMPACT OF S. 1739 ON CONTINUING CONSTRUCTION

While we're on the subject, if our bill was to become law, would the four biggest construction items on your list require non-Federal participation?

Mr. STEINBERG. Let me address two aspects of that, because if your bill became law, Senator Abdnor, then lock and dam 26 and Red River waterway would be subject to the inland waterway cap commencing in fiscal year 1986, and they will both be underway—I mean, continue to be underway—in fiscal year 1986. With respect to Ray Roberts Lake, the bill would not change the cost sharing, nor would it on the other projects. These are projects already underway. The old river auxiliary control structure, it would not change the cost sharing for that project either, since that's already underway.

Senator CHAFEE. Let me try one more question, if I could, one final question. Make this assumption, just so we can get a base, if you would: If there are no new contracts, and if you shut down everything except your ongoing contracts plus your minimum O&M, what would you need?

Mr. GIANELLI. All right.

[The information requested follows:]

BASE CONSTRUCTION AND OPERATION AND MAINTENANCE REQUESTS

Without the award of any new contracts, funds amounting to $850 million would be required for both the regular ongoing construction projects being budgeted in fiscal year 1985 and continuing construction of the M R and T project. Minimum funding of the operations and maintenance program including the M R and T project would total about $1.1 billion. However, funding at these levels would result in programs that are not technically feasible. For instance, without additional funding for follow-on construction contracts, we could be faced with the loss of work already in place. The delay in award of new contracts also could increase project costs due to the added inflation allowance and the possible need to pay the mobilization and demobilization costs for another contractor once new work on the project is resumed.

Senator ABDNOR. Senator Randolph?

PRIORITY OF MANPOWER ASSIGNMENTS

Senator RANDOLPH. Thank you, Mr. Chairman.

I have listened carefully to the presentation and the questions of the Senators: Senators Abdnor, Baucus, and Chafee. I want to preface my remarks, which will be partially repetitious—they have been made on at least two prior occasions—my commendation of the corps is complete as to the corps and to its personnel and to its objectives. Yet my colleagues know and the record would indicate that on two occasions recently I have been, at least partially, cricital of the corps from the standpoint of having competent personnel in Saudi Arabia, and then wondering why we do not have the necessary personnel to take care of the problems of locks and dams on an inland waterway such as the Monongahela River, where I have pointed out—and factually—that an across-the-board reduction of experienced personnel in that area of the river, the movement of traffic would be severely affected.

NEEDS OF THE INLAND WATERWAYS

This gave me reason—and if it's a faulty reason, why, I certainly would acknowledge it—but as I read about the personnel that are in Saudi Arabia, and I understand the commendation that has been given to the work being done there, I was not thinking so much who pays for those members of the Corps of Engineers who are in Saudi Arabia, but they are there when very frankly—and if I am wrong, I wish to be corrected—we need them on the inland waterways of the United States in projects of this kind. Now if I am in error on that, I certainly want to be corrected.

Mr. **Gianelli**. Certainly, Senator, there is going to have to be much work done on the inland waterway system, not only to add additional features but to maintain the present system that we have. The problem I guess that we have right now is working out some arrangement with respect to the funding of that particular work, and I would expect that as soon as some arrangement is worked out between the administration and the Congress with respect to how those things will be funded, the work will get underway. Certainly I feel reasonably confident we will have the necessary people to carry on that work.

PERSONNEL IN SAUDI ARABIA

Senator **Randolph**. How many corps people are now in Saudi Arabia?

General **Wall**. Sir, we'll have to provide that to you for the record, but we are drawing down in Saudi Arabia right now. We are going to reduce one of the districts, eliminate one, and it looks like the work which is being done under our military program will be going down very rapidly in the future.

Senator **Randolph**. Could you be partially helpful in an approximate number and then have the record give the correct number?

General **Wall**. I was going to say somewhere around—it's between 1,000 and 1,300, somewhere in that area.

Senator **Randolph**. That was my understanding, that it was upward of 1,500 at the time I made the comment here in the committee, and that's not a small number of skilled engineers from the corps. I join the commendation here of the work being done, and I understand practically all the work is being done at no cost to this country, certainly, but Saudi Arabia.

[The information requested by Senator Randolph follows:]

FOREIGN MILITARY SALES PROGRAM

As of 30 September 1983, there were 65 military personnel and 1,218 civilians working in Saude Arabia on a reimburseable basis under the Foreign Military Sales Program.

CONGRESSIONAL CONCERNS

Senator **RANDOLPH**. I come back to my original contention and I repeat it, that if it's the fault of the Congress, we ought to recongize that it's our fault. If it's the fault of the administration, the administration should recognize its fault, because these personnel should be used in the United States of America, no matter how important it is in Saudi Arabia or any other part of the world. We do not have a Corps of Engineers to send across this Earth. We need them here on our inland waterways that are suffering. We can't complete a project that has been pending, pending, pending at Gallipolis in Ohio, moving across the Ohio River to Point Pleasant in West Virginia. How long has the project been pending?

Mr. **GIANELLI**. Well, I can't answer that question specifically but again, Senator, I don't believe that any construction is being held up for which we have funds, because the corps in addition to its own forces has the ability to contract out with agencies who have expertise with respect to the matter of constructing locks, so I don't believe that there is any work that is being held up, for example, because of lack of manpower. It's because of lack of funds to carry out that work.

Senator **RANDOLPH**. Well, then, you're saying that the fault is with the administration and Congress or vice-versa or both. Is that correct?

Mr. **GIANELLI**. I am saying yes, Senator, I think that the problem is that the administration and the Congress have to get together on appropriate arrangements with respect to financing the works that you're describing.

LAKE PROJECTS

Senator **RANDOLPH**. It will be perhaps hollow history, but I remember those days when I couldn't convince the corps of what I thought was a very practical suggestion, in that they stop calling these projects "dams" and "reservoirs," two words that have no appeal to them whatsoever. Who would come to West Virginia or any State that they were not familiar with for recreation for themselves and family, and read that there was such-and-such a dam and reservoir there. There had to be the change psychologically, which I introduced, of "Lake." The dam is but a part of the lake. Is that correct?

Mr. **GIANELLI**. That's correct, Senator.

Senator **RANDOLPH**. And what did the corps do? They fought me every step of the way, and I finally had to have a bill passed for West Virginia alone, Senator Abdnor and Senator Chafee. They would not change. This went on for a long time and I had a bill passed that your projects in West Virginia had to contain the name "lake."

Take the family that came and didn't know West Virginia. They would see on the map, "dam and reservoir." They wouldn't go there. They would think of a forbidding wall around that project. They wouldn't realize that shortly after 1966 or 1967 we were beginning to have the cost-benefit ratio give a certain amount of the value of that project to the recreational features—the swimming, the boating, the fishing, the water skiing.

We must remember, in taking about these subjects—and if I'm provincial today, I'm, doing it because it's necessary that it be done—in West Virginia we have not a single natural lake, not a one. These projects that have come into being through the years, approximately 12, some work being done on one or two but the major work being done on the Stonewall Jackson Lake, particularly in Lewis County in the central part of West Virginia.

But it gives me not only the opportunity—and I don't relish in any way negativism or criticism, and I have not done that—but I never could understand, and I will repeat it because this is the last year that I shall be on the Hill, why the corps held out against calling a project lake instead of dam and reservoir. Secretary Gianelli?

Mr. **Gianelli**. I don't think there is any good answer, Senator, and I agree with what you've said. I suspect if there is a problem, maybe it's the institutional arrangements and the way that people have gotten used to referring to these things. I don't think there is any intention to avoid the point that you make, which is certainly a valid one.

Senator **Randolph**. Well, at least I went ahead and had the West Virginia projects by law called lakes.

Mr. **Gianelli**. I think you'll find, Senator, if you will look at the corps installations around the country, you would find that being followed much closer that it was before.

Senator **Randolph**. I didn't hear what you said at the last.

Mr. **Gianelli**. I said I think you would find that nomenclature is being followed much more now than it has been in the past.

Senator **Randolph**. Well, it's in the law now.

Mr. **Gianelli**. Yes.

Senator **Randolph**. Certainly, yes.

WORK TO BE DONE

Mr. Chairman, I again say that I want to commend, in the absence of our chairman, of course your chairmanship of the subcommittee and the excellent work that you are doing. I come back, now, to my commendation of the corps because it has always been so and it will remain so, but I do feel we have to be very cautious. The fact that we can send 1,000 or 1,200 people to Saudi Arabia, is that an "out," Mr. Secretary or Senator Abdnor? Is that an out for the administration, an out for the Congress, that we will not meet our responsibility for necessary personnel to be used here in the United States of America?

Mr. **Gianelli**. No, sir, I don't believe it's an out.

Senator **Randolph**. Well, why isn't it?

Mr. **Gianelli**. I think there is work to be done over there.

Senator **Randolph**. Well, there is work to be done anywhere in the world.

Mr. **Gianelli**. Again, Senator, I think the problem we have had here—and hopefully it will be resolved very shortly—is funding to carry on the work that is necessary in the United States. If we had the funds, much of that work would go forward and those people would be available to do that work.

Senator RANDOLPH. Yes, Well, I am very critical of the administration, very critical of the Congress in reference to this subject matter. That's why I can discuss it here, even though there is very little agreement with what I'm saying, but I do want to say it and I have repeated it—this would be perhaps the third time—in variations, because the work of the corps in West Virginia has been of the highest order. I want that to be emphatic from me.

CONTRIBUTIONS OF CORPS PROJECTS

West Virginia is in a depressed condition with the highest unemployment in the Nation, and it doesn't look like its getting better. But because of the work of the corps on these manmade lakes that I mentioned, perhaps hundreds of millions of dollars in tourism has come to our State which has helped us and continues to help us at a time when there is this vast unemployment in coal, in steel, in aluminum, in chemicals, and in all sorts of basic industries that we have in West Virginia.

Now I am sure that my comment today may seem to be negative, but it is not. It is simply a personal opinion from a supporter of the Corps of Engineers. I supported the corps very enthusiastically every year, including this year, that I have been in this committee. I chaired this committee for 14 years and I had the problems that are now in the hands of Senator Stafford and all members of the committee in helping the corps, which I want to continue to do during the perhaps 11 months that I still have on the Hill.

But there does come a time when, if a member does not speak out what is in his heart about certain deviation from what we call just patting someone on the back—while we can do that and it is deserved by the corps—but I have questions about the corps. As you can understand, when I see Saudi Arabia with some—I was told it was upward of 1,500 persons—perhaps it is nearer to 1,000, and I begin to ask the questions when I go up and down the State of West Virginia, for example, and see no work being done to bring to fruition those facilities so that inland commerce can move, why naturally I think it is not only a right, it is a responsibility that I have to use in the way I have this morning.

CURRENT CORPS MANPOWER STRENGTH

I commend you, Mr. Secretary and General Wall, Mr. Steinberg and all the corps personnel. How many are there in the corps now?

Mr. GIANELLI. In our civil works area we have about 28,000, Senator.

Senator RANDOLPH. Twenty-eight thousand? Is that up, down, or where is it?

Mr. GIANELLI. It's down from what it has been. We have the figures, I believe.

ROLE AS FEDERAL ENGINEER

Senator RANDOLPH. Do you want it to be more?

Mr. GIANELLI. Sir?

Senator RANDOLPH. Do you want the number to rise?

Mr. GIANELLI. I would like to see the corps, Senator, be the real Federal engineer as far as all of the work for the Government is concerned, and we are working very hard in that area. I think the corps has an expertise which is unmatched, and it operates in all 50 States. The problem we have, as I say, is one of funding, and hopefully we can work out so the corps can utilize its talents. I think the country needs them very badly.

Senator RANDOLPH. I commend you for that statement and I agree with you.

Thank you, Mr. Chairman.

Senator ABDNOR. Well, thank you, Senator. As usual, we look to you for your valuable experience and input. Everyone knows that you have done more for the corps over the years, probably fought more for them than anyone. I'm sure if we end up with a water bill, it's only because of your input and contribution to the bill.

One last question, Mr. Gianelli: Just for the record, if your funding was frozen at the 1984 level, what would have to be omitted from your plans if we stayed at the $2.649 billion instead of the $2.724 billion?

Mr. GIANELLI. I think we would apply the reductions to the construction and operation and maintenance areas.

[Additional information follows:]

Senator ABDNOR. What level of funding for the Corps is the lowest technically achievable amount? How is this broken down by budget account?

Mr. GIANELLI. I will provide a table for the record showing for each budget account the fiscal year 1985 budget request, a reduced funding level, and the difference between the two. The reduced level would be based on reducing all but the highest priority new start studies; for construction, minimizing new awards except on the highest priority projects; and for operation and maintenance, delaying lowest priority maintenance.

FISCAL YEAR 1985 LOWEST TECHNICALLY ACHIEVABLE BUDGET

[In thousands of dollars]

Budget account	Budget request	Reduced level	Difference
General investigations	118,000	115,000	−3,000
Construction, general	874,000	834,000	−40,000
Operation and maintenance, general	1,297,000	1,249,000	−48,000
Flood control, MR&T	304,000	295,000	−9,000
Flood control and coastal emergencies	10,000	10,000	
General expenses	113,000	113,000	
Permanent appropriations	8,000	8,000	
Revolving fund			
Total	2,724,000	2,624,000	−100,000

Senator ABDNOR. OK. With that; I have a number of questions to keep you gentlemen busy.

TRIBUTE TO SENATOR RANDOLPH

Mr. GIANELLI. Senator, before you close, I would like to pay my tribute to Senator Randolph. It was my pleasure to work with the Senator on the National Commission on Water Quality with the late Nelson Rockefeller. I have always believed—and I have always watched, Senator—you have been very constructive in your comments and criticisms, and certainly have been a leader in the area of water development. We appreciate that.

Senator **Randolph**. Thank you, Mr. Secretary. Thank you so very much.

Senator **Abdnor**. I think that concludes our meeting this morning. Mr. Secretary, we thank you, General Wall and Mr. Steinberg, for being here. I am sure that we've got a lot of work yet to do before we come up with a final figure. We thank you very much.

[Whereupon, at 11:20 a.m., the committee recessed, to reconvene at the call of the Chair.]

[Mr. Gianelli's written statement and responses to additional questions follow:]

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS)

STATEMENT
OF
WILLIAM R. GIANELLI
ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS)
BEFORE THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE
ON THE FY 1985 CIVIL WORKS BUDGET

February 27, 1984

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STATEMENT OF WILLIAM R. GIANELLI
ASSISTANT SECRETARY OF THE ARMY (CIVIL WORKS)
BEFORE THE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

ON THE FY 1985 CIVIL WORKS BUDGET

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

INTRODUCTION

I AM PLEASED TO APPEAR BEFORE YOUR COMMITTEE TODAY TO DISCUSS THE ARMY'S CIVIL WORKS PROGRAM AND FY 1985 BUDGET RECOMMENDATIONS. THE DIRECTOR OF CIVIL WORKS, MAJOR GENERAL JOHN F. WALL, AND THE CHIEF OF PROGRAMS, BORY STEINBERG, ARE WITH ME AND WILL ASSIST IN PRESENTING TESTIMONY.

WITH YOUR PERMISSION, MR. CHAIRMAN, I WOULD LIKE TO PROCEED BY ASKING THAT MY STATEMENT BE PLACED IN THE RECORD OF THESE HEARINGS. AS REQUESTED IN THE COMMITTEE'S LETTER OF FEBRUARY 23, 1983, THE STATEMENT ADDRESSES THE SIX AREAS SPECIFICALLY MENTIONED IN THE COMMITTEE'S LETTER OF FEBRUARY 10TH. WE ARE RESPONDING SEPARATELY TO THE EIGHT ADDITIONAL QUESTIONS WHICH WERE ATTACHED TO THE FEBRUARY 10TH

LETTER. THE COMMITTEE ALSO HAS BEEN FURNISHED COPIES OF THE STATEMENT WHICH I PRESENTED ON THE FY 1985 CIVIL WORKS BUDGET TO THE ENERGY AND WATER DEVELOPMENT SUBCOMMITTEE, COMMITTEE ON APPROPRIATIONS, UNITED STATES SENATE.

FY 1985 BUDGET OVERVIEW AND SUMMARY

THE TABLE ON THE FOLLOWING PAGE IS A SUMMARY, BY APPROPRIATION ACCOUNT, OF THE CIVIL WORKS BUDGET FOR FY 1985, TOGETHER WITH THE AMOUNTS APPROPRIATED IN THE CURRENT YEAR, FY 1984, AND APPROPRIATED AND ACTUALLY OBLIGATED IN FY 1983.

THE NET FY 1985 BUDGET REQUEST FOR THE CIVIL WORKS PROGRAM TOTALS $2.491 BILLION. THIS NET REQUEST TAKES INTO ACCOUNT OFFSETTING RECEIPTS OF SOME $233 MILLION. THE $233 MILLION IS, IN LARGE PART, AN INDICATION OF THE REVENUE WHICH COULD BE GENERATED IF SOME REASONABLE LEVEL OF COST RECOVERY IS ENACTED TO COVER A PORTION OF THE COST OF DEEP WATER PORTS, INLAND WATERWAYS AND CORPS RECREATIONAL FACILITIES. THE GROSS REQUEST THUS AMOUNTS TO $2.724 BILLION, WHICH IS ABOUT THREE PERCENT ABOVE THE FY 1984 APPROPRIATION.

CORPS OF ENGINEERS - CIVIL WORKS PROGRAM

SUMMARY OF PROGRAM AMOUNTS FOR FISCAL YEARS 1983, 1984, AND 1985
($Million)

Account Title	FY 1983		FY 1984 3/	FY 1985
	Appropriations	Obligations	Appropriations	Budget Request
General Investigations	139.042	138.708	135.810	118.0
Construction, General	1,508.405 2/	1,269.267	889.304	874.0
Operation & Maintenance, General (Special Recreation Use Fees 1/)	1,206.309 (4.942)	1,218.283 (4.942)	1,190.492 (6.000)	1,297.0 (15.0)
Flood Control, Mississippi River & Tributaries	403.052	365.204	300.480	304.0
General Expenses	100.100	100.045	105.800	113.0
Flood Control & Coastal Emergencies	54.877	41.498	10.000	10.0
Revolving Fund	-	- 4/	9.500	-
Subtotal	3,411.785	3,133.005	2,641.368	2,716.0
Permanent Appropriations	9.542	12.175	7.700	8.0
TOTAL	3,421.327	3,145.180	2,649.086	2,724.0

1/ Included in Operation and Maintenance, General.

2/ FY 1983 includes $180M deferred for use in FY 1984-1985.

3/ Reflects proposed transfer of funds from Construction, General ($4.8M) to General Investigations ($2.0M) and General Expenses ($2.8M).

4/ Funds were obligated from receipts generated by sales of revolving fund property, depreciation, and plant increment.

AS SHOWN ON THE TABLE, THE CONSTRUCTION, GENERAL, REQUEST IS $874 MILLION AND WILL MAINTAIN A NO-DELAY ONGOING CONSTRUCTION PROGRAM. THE NUMBER OF ONGOING CONSTRUCTION PROJECTS CONTINUES TO DECLINE AS PROJECTS ARE BROUGHT ON LINE AND IN THE ABSENCE OF NEW STARTS. WITH ADJUSTMENTS FOR COMPLETIONS, THE PROJECT COUNT HAS DROPPED FROM THE 139 BEING FUNDED IN FY 1984 TO THE 120 PROJECTS PROPOSED FOR FUNDING IN FY 1985. THE NEW CONSTRUCTION STARTS FOR WHICH FUNDS ARE BEING REQUESTED IN THE BUDGET WILL BE DISCUSSED SHORTLY.

THIS YEAR, LIKE LAST, THE BUDGET REQUEST FOR OPERATION AND MAINTENANCE, GENERAL, IS THE LARGEST AMONG ALL APPROPRIATIONS REQUESTS. AT $1.297 BILLION, THE FY 1985 REQUEST IS ABOUT 9 PERCENT ABOVE LAST YEAR'S APPROPRIATION. OVERALL, THE BUDGET REQUEST PROVIDES SUFFICIENT FUNDS FOR THE CONTINUED OPERATION AND MAINTENANCE OF OUR PROJECTS INCLUDING SHALLOW DRAFT AND DEEP DRAFT NAVIGATION PROJECTS AND THE INLAND WATERWAYS.

THE GENERAL INVESTIGATIONS ACCOUNT IS BUDGETED AT A LEVEL COMPARABLE TO THAT RECOMMENDED LAST YEAR. THE REQUEST OF $118 MILLION CONTINUES TO EMPHASIZE FUNDING THOSE STUDIES AND ENGINEERING EFFORTS MOST LIKELY TO RESULT IN THE EARLY CONSTRUCTION OF REGULAR CORPS

PROJECTS. INCLUDED IN THE FY 1985 BUDGET IS THE $2.9 MILLION TO FUND THE FEDERAL SHARE OF THE FIRST YEAR'S WORK ON 21 FEASIBILITY PHASE STUDIES. THESE FEASIBILITY PHASE STUDIES ARE FOLLOW-ONS TO SOME OF THE RECONNAISSANCE PHASE STUDIES FUNDED AT FULL FEDERAL EXPENSE IN FY 1984. ALSO BUDGETED IS $20 MILLION FOR THE CONTINUATION OF THE PLANNING AND ENGINEERING ON 36 PROJECTS INCLUDING THREE NEW STARTS AND $7 MILLION FOR 15 ONGOING PROJECTS AND TWO NEW STARTS UNDER THE AE&D PROGRAM.

PENDING LEGISLATION AND ITS RELATIONSHIP TO THE BUDGET

LEGISLATION IS NEEDED TO ACHIEVE THE ESTIMATED RECEIPTS UPON WHICH THE BUDGET IS BASED. IN ADDITION TO NAVIGATION COST RECOVERY LEGISLATION REFERRED TO EARLIER, RECREATION USER FEE LEGISLATION IS ALSO REQUIRED. THE ADMINISTRATION'S REQUEST FOR EXPANDED RECREATION USER FEE COLLECTION AUTHORITY IS REFLECTED IN S. 987. THE DEPARTMENT WILL SUBMIT LEGISLATION TO ELIMINATE RIVER BASIN MONETARY AUTHORIZATION CEILINGS. WHILE NOT NECESSARY TO IMPLEMENT THE FY 1985 BUDGET, IN THE FIRST SESSION OF THE 98TH CONGRESS, WATER RESOURCE DEVELOPMENT AUTHORIZATION BILLS HAVE BEEN

FORMULATED IN THE HOUSE AND SENATE. ALTHOUGH THE TWO BILLS, H.R. 3678 AND S. 1739, DIFFER SUBSTANTIALLY, THEY NONETHELESS ADDRESS WATER PROJECT FINANCING AND COST RECOVERY AND, CONSEQUENTLY, ENACTMENT OF SUCH LEGISLATION WOULD IMPACT ON THE AMOUNT OF WORK THAT COULD BE ACCOMPLISHED WITH FUNDS BUDGETED IN FY 1985. A MONTH AGO, ON JANUARY 24TH, PRESIDENT REAGAN SET FORTH THE ADMINISTRATION'S POLICY ON WATER PROJECT FINANCING AND COST SHARING. THE VISIBILITY GIVEN WATER PROJECT FINANCING AND COST SHARING BY THE PRESIDENT AND CONGRESS CREATES A CLIMATE IN WHICH IT SHOULD BE POSSIBLE TO DEVELOP AND ENACT AUTHORIZING LEGISLATION WHICH WOULD PROVIDE THE NECESSARY CONSISTENCY, STABILITY AND CERTAINTY TO ALLOW ORDERLY PROGRESS IN WATER DEVELOPMENT. EARLY AGREEMENT ON FINANCING AND COST SHARING POLICIES WHICH REFLECT CURRENT ECONOMIC REALITIES IS THE KEY TO MOVING AHEAD ON PRODUCTIVE WATER PROJECTS.

THE FY 1985 BUDGET PROVIDES FOR 14 NEW CONSTRUCTION STARTS WITH A TOTAL PROJECT COST OF $631 MILLION. FUNDS TOTALING $32 MILLION ARE BUDGETED IN FY 1985 TO FINANCE THE SECOND-YEAR REQUIREMENTS OF THE 12 PROJECTS WHICH WE PROPOSED IN THE FY 1983 AND FY 1984 BUDGETS, AND $3 MILLION IS BUDGETED TO FINANCE

THE FIRST-YEAR REQUIREMENTS OF TWO NEW STARTS FOR FY 1985. THE FINANCING AND COST SHARING ON ALL 14 NEW CONSTRUCTION STARTS ARE CONSISTENT WITH THE POLICY ANNOUNCED BY THE PRESIDENT. I URGE THE COMMITTEE TO SUPPORT START OF CONSTRUCTION BY THE CORPS OF ENGINEERS IN FY 1984 OF THE 12 FY 1983/FY 1984 NEW STARTS IN ACCORD WITH THE AGREEMENTS WHICH HAVE BEEN NEGOTIATED WITH THE LOCAL PROJECT SPONSORS. IF THE CONGRESS AND THE ADMINISTRATION AGREE ON COST SHARING ARRANGEMENTS WHICH ARE DIFFERENT FROM THOSE NEGOTIATED, WE WILL ADJUST THOSE NEGOTIATED TO CONFORM TO THE NEW ARRANGEMENTS.

MANPOWER

THE MANPOWER CEILING FOR THE FY 1985 CIVIL WORKS PROGRAM IS 28,896 FULL TIME EQUIVALENT (FTE) WORKYEARS OR ONLY 39 WORKYEARS LESS THAN THE FY 1984 CEILING. THE PROPOSED REDUCTION WILL COME FROM THE CLOSING OF 11 PRINTING FACILITIES AND CUTTING BACK ON PERSONNEL AND EQUIPMENT AT AN ADDITIONAL 12 PRINTING LOCATIONS. CURRENTLY, THE CORPS IS CONCENTRATING ON COMPLYING WITH THE SIGNIFICANT REDUCTION OF 1,629 FTE'S BY THE END OF FY 1984 AND IS ACCOMPLISHING THE REDUCTION BY

THE FOLLOWING MEANS: (1) CONSOLIDATION OF CERTAIN IN-HOUSE SUPPORT FUNCTIONS THAT COULD BE CENTRALIZED; (2) ESTABLISHMENT OF CENTERS OF TECHNICAL EXPERTISE; (3) TRANSFER OF WORKLOAD TO THE PRIVATE SECTOR THROUGH THE CONTRACTING OF NON-CRITICAL COMMERCIAL ACTIVITIES; (4) SHUTDOWN OF CORPS DREDGES; AND (5) JUDICIOUS USE OF TEMPORARY AND PART-TIME EMPLOYEES.

AT PRESENT WE ARE HOLDING OUR OWN, GIVEN THE FACT THAT CONGRESS HAS NOT ENACTED OMNIBUS AND USER FEE LEGISLATION. THE CONSTRUCTION WORKLOAD IS AT AN HISTORIC LOW POINT. ON THE ONE HAND, PROJECTS HAVE BEEN COMING ON LINE, BUT NEW CONSTRUCTION HAS BEEN STYMIED. IN THE EVENT A MAJOR AUTHORIZATION BILL IS ENACTED, WE WOULD HAVE TO REASSESS THE MANPOWER SITUATION. MUCH WILL DEPEND ON LEGISLATIVE DECISIONS REGARDING NON-FEDERAL FINANCIAL PARTICIPATION IN WATER PROJECTS. OBVIOUSLY, THE GREATER LEVERAGE THAT CAN BE GIVEN TO LIMITED FEDERAL FUNDS, THE GREATER WILL BE THE TOTAL SIZE OF THE CONSTRUCTION PROGRAM.

PAY RAISE SUPPLEMENTAL FOR FY 1984

FOR FY 1984, AN ADDITIONAL $4.8 MILLION, INCLUDING $2 MILLION IN THE GENERAL INVESTIGATIONS

APPROPRIATION AND $2.8 MILLION IN THE GENERAL EXPENSES APPROPRIATION, ARE REQUIRED TO FUND PAY INCREASES EFFECTIVE IN JANUARY 1984. THIS ADDITIONAL $4.8 MILLION IS PROPOSED TO BE DERIVED BY TRANSFER FROM THE CONSTRUCTION, GENERAL, APPROPRIATION. THE GI APPROPRIATION CANNOT ABSORB THE $2 MILLION PAY RAISE COST WITHOUT SIGNIFICANT IMPACT ON THE ONGOING PLANNING AND ENGINEERING PROGRAM IN FY 1984.

RELATIONSHIP TO GRACE COMMISSION REPORT

MANY OF THE GRACE COMMISSION RECOMMENDATIONS RELATE TO THE CIVIL WORKS PROGRAM. THE RECOMMENDATIONS OF THE GRACE COMMISSION HAVING THE GREATEST POTENTIAL MONETARY IMPACT ON THE CORPS BUDGET ARE THOSE RELATING TO USER FEES AND COST RECOVERY. THE USER FEES RECEIPTS FOR NAVIGATION AND RECREATION PROJECTED IN THE FY 1985 BUDGET ARE LESS THAN WHAT WOULD BE REALIZED WITH FULL COST RECOVERY BUT ARE A SUBSTANTIAL IMPROVEMENT OVER THE CURRENT SITUATION.

OCEAN DISPOSAL OF DREDGED MATERIAL

THE COST OF DREDGING OUR NATION'S WATERWAYS AND HARBORS IS SIGNIFICANT AND STEADILY RISING. WE ARE

VERY MUCH CONCERNED ABOUT THE TREND TO REQUIRE DISPOSAL OF DREDGED MATERIAL AT GREAT DISTANCES IN THE OCEAN IN THE ABSENCE OF SCIENTIFIC EVIDENCE SUGGESTING THAT THERE ARE BENEFITS COMMENSURATE WITH THE COSTS OF SUCH EFFORTS. A CLOSER LOOK AT SUCH EXPENDITURES IS NEEDED BECAUSE THE NET EFFECT OF ACCEPTING UNSUPPORTED, COSTLY PROPOSALS TO DISPOSE OF DREDGED MATERIAL EVER FURTHER OUT TO SEA WOULD BE LESS AVAILABLE MONEY FOR OTHER WATER PROJECTS. THE ADDITIONAL COST MIGHT ALSO RESULT IN THE INFEASIBILITY OF SOME NEEDED PROJECTS.

REGULATORY REFORM

REGULATORY REFORM WAS AN EARLY GOAL OF THIS ADMINISTRATION. A NUMBER OF REFORMS HAVE BEEN IMPLEMENTED ADMINISTRATIVELY. THE NATIONWIDE PERMITS, ALONG WITH OUR REGIONAL AND STATE GENERAL PERMITS, HAVE BEEN A CORNERSTONE IN OUR REFORM EFFORTS. THESE PERMITS ARE AUTHORIZING OVER ONE HUNDRED THOUSAND ACTIVITIES ANNUALLY WITHOUT THE RED TAPE OF FORMALLY PROCESSING INDIVIDUAL PERMITS. THE RESULT OF OUR REGULATORY REFORMS TO DATE IS THAT WE HAVE MAINTAINED THE ENVIRONMENTAL STANDARDS OF THE PROGRAM WHILE

REDUCING THE AVERAGE PERMIT PROCESSING TIME BY 40 PERCENT AND REDUCING THE BACKLOG OF APPLICATIONS AWAITING ACTION BY 60 PERCENT. ANOTHER MILESTONE WAS THE SETTLEMENT, ON FEBRUARY 9TH, OF A LAWSUIT CONCERNING THE ARMY'S 404 PERMIT REGULATIONS. THE SETTLEMENT PROVIDES FOR CHANGES TO BE PROPOSED TO ARMY REGULATIONS WHICH WOULD ENHANCE ARMY'S WETLAND MONITORING CAPABILITY, PROVIDE FOR MORE CASE-BY-CASE REVIEW OF PROPOSALS TO FILL WETLANDS, AND CLARIFICATION OF ENVIRONMENTAL POLICIES.

MOUNT ST. HELENS

THE CORPS RESPONDED QUICKLY AND EFFECTIVELY TO THE CRISES CREATED BY THE ERUPTION OF MOUNT ST. HELENS. DURING THE LAST 3 1/2 YEARS, THE CORPS OF ENGINEERS HAS EXPENDED OVER $1/3 BILLION IN ORDER TO MINIMIZE DAMAGE AND PROPERTY LOSSES, FACILITATE RECOVERY AND PROVIDE CONTINUING PROTECTION IN THOSE AREAS ADVERSELY AFFECTED BY THE EXTRAORDINARY CONDITIONS. THE EXPERIENCES OF THE LAST YEAR HAVE BEEN LESS SEVERE, AND WE HAVE BEEN ABLE TO FOCUS OUR ATTENTION ON THE LONG-RANGE MANAGEMENT AND PROTECTION OF THIS AREA.

THE COMPREHENSIVE PLAN WAS COMPLETED AND SUBMITTED TO THE PRESIDENT ON NOVEMBER 10, 1983. IT HAS BEEN WIDELY DISTRIBUTED, AND INTERESTED PARTIES HAVE HAD AN OPPORTUNITY TO PRESENT THEIR VIEWS BOTH AT PUBLIC MEETINGS AND IN WRITING. WE ARE PRESENTLY REVIEWING THE COMMENTS THAT WERE RECEIVED BY THE CORPS. CLEARLY, ELIMINATION OF THE DANGER FROM A POSSIBLE FAILURE OF THE DEBRIS DAM AT SPIRIT LAKE IS OF THE HIGHEST PRIORITY. ACCORDINGLY, A FINAL DECISION ON THE APPROPRIATE OUTLET FOR THE LAKE WILL BE MADE IN THE NEAR FUTURE, AND CONSTRUCTION SHOULD BEGIN THIS SUMMER.

DETAILED PLANNING IS UNDERWAY TO BETTER DEFINE THE ALTERNATIVES FOR THE CONSTRUCTION OF RETAINING STRUCTURES ON THE TOUTLE RIVER. THE FEASIBILITY REPORT IS SCHEDULED TO BE COMPLETED LATER THIS FISCAL YEAR.

THIS COMPLETES MY STATEMENT, MR. CHAIRMAN.

DEPARTMENT OF DEFENSE
UNITED STATES OF AMERICA

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
WASHINGTON, DC 20310

FEB 27 1984

Honorable Robert T. Stafford
Chairman
Committee on Environment and Public Works
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

This letter provides my responses to the eight questions attached to the Committee's letter of February 10, 1984, signed jointly by you and the Honorable Jennings Randolph. The answers to your questions, in the order in which they were asked, are presented in the enclosure to this letter. The answer to question 7 will take additional time to prepare and will be furnished to you as soon as possible.

Sincerely,

WR Gianelli
William R. Gianelli
Assistant Secretary of the Army
(Civil Works)

Enclosure

Responses of William R. Gianelli,
Assistant Secretary of the Army (Civil Works)
to Questions from Honorable Robert T. Stafford,
Chairman, and Honorable Jennings Randolph,
Ranking Minority Leader,
Committee on Environment and Public Works
United States Senate

Question 1. The Administration budget assumes that $200 million will be generated annually in navigation user fees after 1985. Could you please specify the assumptions behind those numbers?

Answer. The $200 million is not a specifically derived figure. Rather, it is an indication of the revenue which could be generated if some reasonable level of cost recovery is enacted to cover a portion of the cost of deep water ports and inland waterways.

Question 2. Please provide statistics on the number of continuing construction, reimbursement, rehabilitation, dam safety assurance and engineering and design projects scheduled in FY 1983, FY 1984 and FY 1985. Also provide the balance required to complete these and FY 1985 starts with FY 1984 potential allocation for new starts.

Answer. Table I presents a breakdown by project type for Fiscal Years 1983-1985, and the scheduled and unscheduled balance to complete after Fiscal Year 1985.

Question 3. Please provide five year projections of funding levels for Construction, General under current program plans and if no new starts are initiated.

Answer. Five year projections for Construction, General are as follows, with dollars in millions. The "Current Program" figures are the Construction, General portion of the multi-year Civil Works budget ceiling allocated to the Corps by OMB. The "Without New Starts" figures exclude new starts for regularly authorized construction projects, including budgeted FY 1985 new construction starts and assumed new construction starts for FY 1986 through 1989, as well as a wedge of funds for assumed new starts in other programs. These figures assume that 12 FY 1983 and 1984 new construction starts will, in fact, start in FY 1984 and include the continuing requirements for these 12 new starts. Moreover, the "Without New Starts" figures include requirements of approximately $250-300 million for unscheduled projects or elements thereof which have previously received construction funds.

	FY 1985	FY 1986	FY 1987	FY 1988	FY 1989
Current Program	$874	$824	$869	$979	$1,027
Without New Starts	$851	$768	$752	$808	$798

Question 4.	Please specify how much of the "jobs bill" money has been obligated and expended.
Answer.	Table II provides a breakdown by appropriation title showing total amount available, obligations, expenditures, and jobs created, as of 31 December 1983.
Question 5.	Please provide statistics on FTE levels for Fiscal Years 1980-1985, and total budgeted salary for this level of employment.
Answer.	The FTE authorization levels and associated salary costs for Fiscal Years 1980-1985 are provided in Table III.
Question 6a.	Please specify how many hopper dredges are budgeted for FY 1985 and indicate where they will be located?
Answer.	Funds to operate four hopper dredges are included in the budget. One has been assigned to the East Coast, one on the Gulf Coast and two on the West Coast.
Question 6b.	Where will all elements of the minimum fleet be located?
Answer.	At this time the Corps fleet consists of nine non-hoppers dredges in addition to the four hopper dredges. Three dustpan

dredges will be employed on the Mississippi River but can respond to dredging needs on the lower sections of the Missouri and Ohio Rivers; two large cutterhead pipeline dredges are located on the upper reaches of the Mississippi River but also will serve the Illinois Waterway; and three sidecaster dredges and one special purpose dredge are assigned to the East Coast.

Question 7. Please list the new construction contract awards of $1 million or more which you anticipate will be awarded in FY 1984 and FY 1985.

Answer. (This information will be furnished as soon as possible.)*

Question 8. How much will be spent in the FY 1984 and FY 1985 budgets for what the Corps would describe as environmental protection purposes? Please break this down into such items as wildlife mitigation and other aspects.

Answer. We have given substantial thought as to how to provide a reasonable response to this important question. Although we have attempted to answer this type of question in the past, we find these past estimates based on earlier studies and initial Corp involvement with NEPA and other acts lacking currency and empirical verification. We have concluded that a meaningful answer to this question cannot be given. Environmental protection is more than explicit expenditures for mitigation and enhancement; it is an integral part of project design, construction, and implementation. Moreover, a good part of regulatory program expenditures involves environmental protection. No accounting system, no matter how cleverly designed, can reasonably reflect the true cost associated either with modifications made in the interest of, or in the consideration given to, environmental concerns. We hope the Committee can discharge its responsibilities without this type of information.

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*The response to question 7 may be found immediately following the response to question 8.

Senator ABDNOR. How many new construction contracts of $1 million or more are programmed for FY 1984 and FY 1985? Please provide the Committee with a list of these contracts and award dates.

Mr. GIANELLI. I will provide that information for the record.

DATE 03/29/84 — NEW CONTRACT AWARDS SCHEDULED FOR FY 1984 FOR THE LOWER MISS VALLEY DIVISION
(CONTRACT AMOUNTS EQUAL OR GREATER THAN $1000000)

SORT: DIVISION, PROJECT DESCRIPTION, LINE ITEM DESCRIPTION

PROJECT NAME DESCRIPTION OF WORK	EST AWARD DATE	CONTRACT AMOUNT ($000)	FY 1984 REQ'MT ($000)	BALANCE TO COMPLETE ($000)
ATCHAFALAYA BASIN, LA				
E-71.0 SHEETPILE	FEB 84	2500	2100	400
***** PROJECT TOTAL		2500	2100	400
CHANNEL IMPROVEMENT				
ARCADIA POINT MS	JUL 84	3100	0	3100
BELOW RACETRACK MS	AUG 84	1000	0	1000
COTTONWOOD BAR MS TF MI 470 R	SEP 84	1000	0	1000
GRAND GULF-LOWER TF	SEP 84	1000	0	1000
HOGPOINT REVETMENT TRENCHFILL	SEP 84	2595	10	2585
ISLAND 84 AR-MS	SEP 84	1900	0	1900
LELAND BAR	JUL 84	1500	300	1200
MOORE IS, MO.	SEP 84	1000	0	1000
STOVE BANK PAVING	AUG 84	1704	10	1694
***** PROJECT TOTAL		14799	320	14479
EAST ST. LOUIS & VICINITY				
PUMPING PLANTS	OCT 83	6100	765	5335
***** PROJECT TOTAL		6100	765	5335
KASKASKIA ISLAND DRAINAGE AND LEVEE DISTRICT				
LEVEES ITEM 3B	APR 84	1060	500	560
LEVEES ITEM 3A, 3C, & 4	APR 84	10295	3134	7161
***** PROJECT TOTAL		11355	3634	7721
LAKE PONCHARTRAIN				
CITRUS LKFRT LV IHNC - PARIS RD FSP	APR 84	11907	2989	8918
***** PROJECT TOTAL		11907	2989	8918
LAROSE TO GOLDEN MEADOW				
SECT F LV 1ST LIFT	JUN 84	2550	200	2350
***** PROJECT TOTAL		2550	200	2350

DATE 03/29/84

NEW CONTRACT AWARDS SCHEDULED FOR FY 1984 FOR THE LOWER MISS VALLEY DIVISION
(CONTRACT AMOUNTS EQUAL OR GREATER THAN $1000000)

SORT: DIVISION, PROJECT DESCRIPTION, LINE ITEM DESCRIPTION

PROJECT NAME DESCRIPTION OF WORK	EST AWARD DATE	CONTRACT AMOUNT ($000)	FY 1984 REQ'MT ($000)	BALANCE TO COMPLETE ($000)
LOCK & DAM 26 REPLACE				
DAM 2ND STG	AUG 84	43300	561	42739
LOCK	AUG 84	327800	5770	322030
PIASA SEWER	JAN 84	2356	170	2186
***** PROJECT TOTAL		373456	6501	366955
MCGEE CREEK D & LD				
LOWER FLANK LV UPPER PT	MAR 84	2094	1230	864
***** PROJECT TOTAL		2094	1230	864
MISSISSIPPI RIVER LEVEES				
CAIRO-MOUND CITY SEEPAGE CTRL	JUL 84	2800	250	2550
DEERFIELD BERM ITEM B	MAY 84	2250	700	1550
GRAND LAKE ITEM 513-R	JUN 84	6285	1079	5206
LAKE BOLIVAR BERM ITEM 570-L	AUG 84	2832	150	2682
LAMBETHVILLE, AR BERM	MAY 84	1768	884	884
NASH, MO RELIEF WELLS	MAR 84	1450	800	650
***** PROJECT TOTAL		17385	3853	13522
OUACHITA & BLACK RIVERS				
PINE ISLD. ACCESS PT. (FELSENTHAL)	JUL 84	1028	75	953
***** PROJECT TOTAL		1028	75	953
PEARL RIVER, VICINITY OF JACKSON				
CLEARING PLAN	JUN 84	2580	2080	500
***** PROJECT TOTAL		2580	2080	500
RED RIVER EMERGENCY BANK PROTECTION				
GOOSE LK. REAL. & STAB. 348-352	APR 84	2664	901	1763
KUYKENDAL REVET. M.398.2-R	FEB 84	1000	1000	0
MANIECE BAYOU REVET. M.352.5-L	MAR 84	1999	1118	881
***** PROJECT TOTAL		5663	3019	2644

DATE 03/29/84 NEW CONTRACT AWARDS SCHEDULED FOR FY 1984 FOR THE (CONTRACT AMOUNTS EQUAL OR GREATER THAN $1000000) LOWER MISS VALLEY DIVISION

SORT: DIVISION, PROJECT DESCRIPTION, LINE ITEM DESCRIPTION

PROJECT NAME ++++++++++++++ DESCRIPTION OF WORK	EST AWARD DATE	CONTRACT AMOUNT ($000)	FY 1984 REQ'MT ($000)	BALANCE TO COMPLETE ($000)
RED RIVER LEVEES & BANK STAB. BELOW DECISON DAM				
BELCHER, LA REVET. & REAL.	MAR 84	4637	3224	1413
***** PROJECT TOTAL		4637	3224	1413
RED RIVER WATERWAY, MISS. RIV. TO SHREVEPORT				
DARROW REAL. & STAB. M123.5 (POOL 2) & LEVEE SETBACK	JUL 84	11250	375	10875
ENGLAND REAL. & STAB. M110.5-112 (POOL 2)	JUN 84	7500	1013	6482
L&A RR BRIDGE ALEX M. 106.5 (POOL 2)	JUL 84	24250	300	23950
LAC AMELIA REVET. (POOL 1) M.42.5-R	NOV 83	1930	1930	0
LORRAN LAKE REAL. & STAB. M-36.2 (POOL 1)	APR 84	9662	2135	7527
MEADE REAL. & STAB. M119.8 (POOL 2) & LEVEE SETBACK	MAY 84	7458	1505	5953
PHILIP BAYOU REAL. & STAB. M106-109 (POOL 2) & LEVEE SETBACK	JUN 84	10688	476	10212
RAVEN CAMP REAL. & STAB. M. 136-138 (POOL 2)	MAR 84	7630	4079	3551
***** PROJECT TOTAL		80368	11819	68550
ST. FRANCIS RIVER & TRIBS.				
HY 18 BR ST LINE OUT BELLE FTN MI 0.48	MAR 84	1204	80	1124
***** PROJECT TOTAL		1204	80	1124
TENSAS BASIN(TENSAS-COCODRIE PUMPING PLANT)				
INSTL PERM PWR	JAN 84	1470	500	970
***** PROJECT TOTAL		1470	500	970
YAZOO BASIN - ASCALMORE-TIPPO & OPOSSUM BAYOUS				
LEVEE ITEM 5	NOV 83	3400	1540	1860
***** PROJECT TOTAL		3400	1540	1860
YAZOO BASIN - BACKWATER				
ROCKY BAYOU LEV IT 1	JUL 84	6409	300	6109
***** PROJECT TOTAL		6409	300	6109
YAZOO BASIN - UPPER PROJECTS				
BLK DEMO BAYOU DRAIN STR-LEV GAP	JAN 84	1368	938	430

DATE 03/29/84 NEW CONTRACT AWARDS SCHEDULED FOR FY 1984 FOR THE (CONTRACT AMOUNTS EQUAL OR GREATER THAN $1000000) LOWER MISS VALLEY DIVISION

SORT: DIVISION,PROJECT DESCRIPTION,LINE ITEM DESCRIPTION

PROJECT NAME ++++++++++++++ DESCRIPTION OF WORK	EST AWARD DATE	CONTRACT AMOUNT ($000)	FY 1984 REQ'MT ($000)	BALANCE TO COMPLETE ($000)
CHANNEL ITEM NO 2-D	OCT 83	3960	2327	1633
***** PROJECT TOTAL		5328	3265	2063
YAZOO BASIN TRIBUTARIES				
PANOLA-QUITMAN C(R)	MAR 84	1070	770	300
PELUCIA CREEK 1 BRIDGE ITEM 1	MAR 84	1586	462	1124
PELUCIA CREEK ITEM 1	MAY 84	4741	1130	3611
***** PROJECT TOTAL		7397	2362	5035
***** DIVISION TOTAL FOR LOWER MISS VALLEY		561630	49865	511765

DATE 03/29/84 NEW CONTRACT AWARDS SCHEDULED FOR FY 1984 FOR THE MISSOURI RIVER DIVISION
(CONTRACT AMOUNTS EQUAL OR GREATER THAN $1000000)

SORT: DIVISION, PROJECT DESCRIPTION, LINE ITEM DESCRIPTION

PROJECT NAME +++++++++++++ DESCRIPTION OF WORK	EST AWARD DATE	CONTRACT AMOUNT ($000)	FY 1984 REQ'MT ($000)	BALANCE TO COMPLETE ($000)
BLUE RIVER CHANNEL, MO				
CHANNELS STAGE 2, PH II	DEC 83	4890	1445	3445
RAILROAD STAGE 2 PHASE I	JUL 84	2080	0	2080
RAILROADS STAGE 2 PHASE I	JUN 84	3250	0	3250
***** PROJECT TOTAL		10220	1445	8775
CHATFIELD LAKE, CO				
CHANNEL STAGE 2	JUL 84	2028	377	1651
CHANNEL STAGE 1	MAR 84	1475	440	1035
UNION AVE WEIR	MAR 84	1250	790	460
***** PROJECT TOTAL		4753	1607	3146
LITTLE BLUE RIVER LAKES, MO				
WOODS CHAPEL ROAD PHASE II	MAR 84	4885	400	4485
***** PROJECT TOTAL		4885	400	4485
LITTLE SIOUX RIVER, IA				
CHANNEL - RECONSTRUCT CONTROL SILL	JUL 84	3732	960	2772
***** PROJECT TOTAL		3732	960	2772
PAPILLION CREEK & TRIBUTARIES LAKES, NE				
REC FACILITIES SITE 20	JUL 84	1205	200	1005
***** PROJECT TOTAL		1205	200	1005
***** DIVISION TOTAL FOR MISSOURI RIVER		24795	4612	20183

DATE 03/29/84 NEW CONTRACT AWARDS SCHEDULED FOR FY 1984 FOR THE NORTH ATLANTIC DIVISION
(CONTRACT AMOUNTS EQUAL OR GREATER THAN $1000000)

SORT: DIVISION,PROJECT DESCRIPTION,LINE ITEM DESCRIPTION

PROJECT NAME ++++++++++++++ DESCRIPTION OF WORK	EST AWARD DATE	CONTRACT AMOUNT ($000)	FY 1984 REQ'MT ($000)	BALANCE TO COMPLETE ($000)
EAST ROCKAWAY TO ROCKAWAY INLET & JAMAICA BAY, NY				
PERIODIC NOURISHMENT	MAY 84	5000	2800	2200
***** PROJECT TOTAL		5000	2800	2200
NEW YORK HARBOR COLLECTION & REMOVAL OF DRIFT, NY				
JERSEY CITY, NY	JUL 84	6130	330	5800
***** PROJECT TOTAL		6130	330	5800
VIRGINIA BEACH STREAM CANAL #2				
CANALS-CHANNEL EXCAVATION	JUN 84	1950	1040	910
***** PROJECT TOTAL		1950	1040	910
***** DIVISION TOTAL FOR NORTH ATLANTIC		13080	4170	8910

DATE 03/29/84 NEW CONTRACT AWARDS SCHEDULED FOR FY 1984 FOR THE NORTH CENTRAL DIVISION
(CONTRACT AMOUNTS EQUAL OR GREATER THAN $1000000)

SORT: DIVISION,PROJECT DESCRIPTION,LINE ITEM DESCRIPTION

PROJECT NAME +++++++++++++ DESCRIPTION OF WORK	EST AWARD DATE	CONTRACT AMOUNT ($000)	FY 1984 REQ'MT ($000)	BALANCE TO COMPLETE ($000)
BETTENDORF, IA				
RELOCATIONS STG IIIA LEVEES A2 (MC)	DEC 83	2725	1700	1025
STG IIIB LEVEES AND BEAUTIFICATION B2 (MC)	SEP 84	5390	100	5290
***** PROJECT TOTAL		8115	1800	6315
BIG STONE LAKE & WHETSTONE RIVER, MN & SD				
IRONDEQUOIT BAY, NY (MC) CHANNELS & BREAKWATERS	APR 84	5940	2215	3725
***** PROJECT TOTAL		5940	2215	3725
DAVENPORT, IA				
STG I WATER TREATMENT PLANT	SEP 84	1160	430	730
***** PROJECT TOTAL		1160	430	730
ELLICOTT CREEK				
STAGE I RELOCATIONS (MC)	JUL 84	1295	410	885
***** PROJECT TOTAL		1295	410	885
IWW, BRANDON ROAD L&D, IL				
RESURFACING OF LOCK & REHABILITATION OF LOCK GATES (MC)	JAN 84	8400	4500	3900
***** PROJECT TOTAL		8400	4500	3900
IWW, LOCKPORT L&D, IL				
STG III REPLACE LIFT GATE	MAY 84	2730	50	2680
STG II LOCKWALLS	APR 84	6880	800	6080
***** PROJECT TOTAL		9610	850	8760
MANKATO & NORTH MANKATO, MN				
MAIN STREET BRIDGE I-2 (MC)	FEB 84	17539	1400	16139
***** PROJECT TOTAL		17539	1400	16139

DATE 03/29/84

NEW CONTRACT AWARDS SCHEDULED FOR FY 1984 FOR THE NORTH CENTRAL DIVISION
(CONTRACT AMOUNTS EQUAL OR GREATER THAN $1000000)

SORT: DIVISION,PROJECT DESCRIPTION,LINE ITEM DESCRIPTION

PROJECT NAME +++++++++++++ DESCRIPTION OF WORK	EST AWARD DATE	CONTRACT AMOUNT ($000)	FY 1984 REQ'MT ($000)	BALANCE TO COMPLETE ($000)
MILAN, IL				
STG IIIC LEVEES	MAY 84	3920	620	3300
***** PROJECT TOTAL		3920	620	3300
POINT PLACE, OH				
PUMP PLANT (OTTAWA R) (MC) B-3	MAR 84	5038	2544	2494
***** PROJECT TOTAL		5038	2544	2494
PRESQUE ISLE PENINSULA, ERIE, PA				
BEACH NOURISHMENT	MAR 84	1424	1424	0
***** PROJECT TOTAL		1424	1424	0
ROCKFORD, IL				
CLEANOUT OF LEVINGS LAKE & SOUTH BRANCH	MAY 84	1930	1155	775
***** PROJECT TOTAL		1930	1155	775
WATERLOO, IA				
STAGE VG, WATERLOO RR BR	FEB 84	1850	320	1530
***** PROJECT TOTAL		1850	320	1530
WINONA, MN				
REACH E-3 CHANNELS & UTILITIES (MC)	MAR 84	2363	962	1401
***** PROJECT TOTAL		2363	962	1401
***** DIVISION TOTAL FOR NORTH CENTRAL		68584	18630	49954

DATE 03/29/84 NEW CONTRACT AWARDS SCHEDULED FOR FY 1984 FOR THE NORTH PACIFIC DIVISION
(CONTRACT AMOUNTS EQUAL OR GREATER THAN $1000000)

SORT: DIVISION, PROJECT DESCRIPTION, LINE ITEM DESCRIPTION

PROJECT NAME +++++++++++++ DESCRIPTION OF WORK	EST AWARD DATE	CONTRACT AMOUNT ($000)	FY 1984 REQ'MT ($000)	BALANCE TO COMPLETE ($000)
BONNEVILLE 2ND POWERHOUSE				
HYDRAULIC CYLINDER REP.	MAY 84	1200	200	1000
POWERHOUSE INTERIOR SEALING	OCT 83	1441	905	536
***** PROJECT TOTAL		2641	1105	1536
CHENA RIVER LAKES				
BUILDINGS & G WAREHOUSE OFFICE	FEB 84	1350	784	566
DAMS 6 APPURTENANCES DEBRIS CONTROL(MOOSE CREEK DAM)	FEB 84	4220	2647	1573
LEVEES & DRAINAGE - LEVEE PROTECTION PHASE I	MAY 84	9337	1590	7647
***** PROJECT TOTAL		14907	5121	9786
CHIEF JOSEPH ADDITIONAL UNITS				
POWER PLANT MU EXITATION SYST	OCT 83	2500	1200	1300
POWER PLANT (TURBINE DEFICIENCIES)	SEP 84	19300	50	19250
REC FACIL BRIDGEFORT STATE PARK PHASE II COMPLETION	SEP 84	1250	50	1200
***** PROJECT TOTAL		23050	1300	21750
DWORSHAK DAM & RESERVOIR				
RECREATION FACILITIES - THREE MEADOWS GROUP CAMP	MAR 84	1500	880	620
ROAD - FREEMAN CREEK - ROAD COMPLETION 5.3 MI	MAR 84	1509	1133	376
***** PROJECT TOTAL		3009	2013	996
JOHN DAY LOCK & DAM				
F&W FAC-PH-I SUBMERGED TRAVELING SCREENS CRANE	MAR 84	1350	700	650
F&W FAC-PH-I SUBMERGED TRAVELING SCREENS	FEB 84	3098	2600	498
FISH & WILDLIFE FAC - PH-I CONDUIT OUTFALL STRUCTURE & VERTI	JAN 84	8438	5800	2638
***** PROJECT TOTAL		12886	9100	3786
LOWER COLUMBIA RIV BASIN BANK PROTECTION, OR & WA				
BANK STABILIZATION JANICE, WARIS, ELLENDER RUSTY BUMPER & GI	SEP 84	1400	0	1400
***** PROJECT TOTAL		1400	0	1400

DATE 03/29/84 NEW CONTRACT AWARDS SCHEDULED FOR FY 1984 FOR THE NORTH PACIFIC DIVISION
(CONTRACT AMOUNTS EQUAL OR GREATER THAN $1000000)

SORT: DIVISION, PROJECT DESCRIPTION, LINE ITEM DESCRIPTION

PROJECT NAME +++++++++++++ DESCRIPTION OF WORK	EST AWARD DATE	CONTRACT AMOUNT ($000)	FY 1984 REQ'MT ($000)	BALANCE TO COMPLETE ($000)
LOWER SNAKE F & WL COMPENSATION				
F & WL FACIL - IRRIGON STEELHEAD HATCHERY	FEB 84	8877	1440	7437
F&WL FAC-WALLOWA SAT FAC TRAP SPN REAR & INCU	APR 84	3356	600	2756
F&WL FAC-LYONS FERRY SAT TRAP SPAWN FACS PH-II TUCANNON	FEB 84	2981	750	2231
***** PROJECT TOTAL		15214	2790	12424
MILL CREEK LAKE, WA				
CHANNELS & CANALS-REHAB PH I	APR 84	1200	800	400
***** PROJECT TOTAL		1200	800	400
***** DIVISION TOTAL FOR NORTH PACIFIC		74307	22229	52078

DATE 03/29/84 NEW CONTRACT AWARDS SCHEDULED FOR FY 1984 FOR THE OHIO RIVER DIVISION
(CONTRACT AMOUNTS EQUAL OR GREATER THAN $1000000)

SORT: DIVISION, PROJECT DESCRIPTION, LINE ITEM DESCRIPTION

PROJECT NAME +++++++++++++ DESCRIPTION OF WORK	EST AWARD DATE	CONTRACT AMOUNT ($000)	FY 1984 REQ'MT ($000)	BALANCE TO COMPLETE ($000)
BEECH FORK LAKE, WV				
STOWERS BRANCH	JAN 84	1060	400	660
***** PROJECT TOTAL		1060	400	660
BIG SOUTH FORK, KY & TN				
BLUE HERON ACCESS PART 1	MAR 84	1300	1300	0
BLUE HERON OVERLOOK & CAMPGROUND	SEP 84	3077	100	2977
***** PROJECT TOTAL		4377	1400	2977
EMSWORTH LOCKS AND DAMS, OHIO RIVER, PA (REHAB)				
ELECTRICAL SYSTEM	JUN 84	1400	500	900
***** PROJECT TOTAL		1400	500	900
LEVISA & TUG FORKS-BIG SANDY RIV & UPPER CUMBERLAND RIV				
BARBOURVILLE CUTOFF	JUL 84	6100	820	5280
PINEVILLE - PINE ST BRIDGE	OCT 83	1353	604	749
PINEVILLE INTERIOR PREPARATION	JUL 84	2219	423	1796
***** PROJECT TOTAL		9672	1847	7825
MILL CREEK, OH				
RR RELOC, CHANNEL & LEVEE, SEC 2	APR 84	10411	2460	7951
***** PROJECT TOTAL		10411	2460	7951
MONTGOMERY LOCKS & DAM, PA				
UPPER GUARD WALL CELLS	MAY 84	1250	675	575
***** PROJECT TOTAL		1250	675	575
MUSKINGUM RIVER LAKES, OH (DSA)				
CHARLES MILL DIKE RAISE	MAY 84	1130	400	730
***** PROJECT TOTAL		1130	400	730

DATE 03/29/84 NEW CONTRACT AWARDS SCHEDULED FOR FY 1984 FOR THE OHIO RIVER DIVISION
(CONTRACT AMOUNTS EQUAL OR GREATER THAN $1000000)

SORT: DIVISION,PROJECT DESCRIPTION,LINE ITEM DESCRIPTION

PROJECT NAME ++++++++++++++ DESCRIPTION OF WORK	EST AWARD DATE	CONTRACT AMOUNT ($000)	FY 1984 REQ'M'T ($000)	BALANCE TO COMPLETE ($000)
MUSKINGUM RIVER LAKES, OH (REHAB)				
MOHICANVILLE DIKE PT II	MAY 84	1435	200	1235
***** PROJECT TOTAL		1435	200	1235
PAINTSVILLE LAKE, KY				
BUILDINGS, GROUNDS & UTILITIES	JUN 84	1025	125	900
***** PROJECT TOTAL		1025	125	900
R. D. BAILEY LAKE, WV				
SEED & REFOREST	OCT 83	1084	780	304
***** PROJECT TOTAL		1084	780	304
SMITHLAND LOCKS & DAM, IL, IN & KY				
DYER CREEK BOAT RAMP	AUG 84	1089	75	1014
***** PROJECT TOTAL		1089	75	1014
SOUTHWESTERN JEFFERSON COUNTY, KY				
POND CREEK PUMPS & MOTORS	APR 84	5912	1000	4912
***** PROJECT TOTAL		5912	1000	4912
STONEWALL JACKSON LAKE, WV				
EQUITABLE GAS CO. ACCESS ROADS-PHASE 2	JUL 84	3390	1400	1990
EQUITABLE GAS PHASE II PIPING	JUN 84	1300	700	600
WV RT. 30 SEC 3 RELOCATION	AUG 84	11600	500	11100
WV RT. 30 SEC 2 RELOCATION	JUL 84	10350	1700	8650
***** PROJECT TOTAL		26640	4300	22340
***** DIVISION TOTAL FOR OHIO RIVER		66485	14162	52323

DATE 03/29/84 NEW CONTRACT AWARDS SCHEDULED FOR FY 1984 FOR THE PACIFIC OCEAN DIVISION
(CONTRACT AMOUNTS EQUAL OR GREATER THAN $1000000)

SORT: DIVISION, PROJECT DESCRIPTION, LINE ITEM DESCRIPTION

PROJECT NAME ************* DESCRIPTION OF WORK		EST AWARD DATE	CONTRACT AMOUNT ($000)	FY 1984 REQ'MT ($000)	BALANCE TO COMPLETE ($000)
KAHOMA STREAM, HI					
CHANNEL		MAY 84	15300	3170	12130
***** PROJECT TOTAL			15300	3170	12130
***** DIVISION TOTAL FOR	PACIFIC OCEAN		15300	3170	12130

DATE 03/29/84 NEW CONTRACT AWARDS SCHEDULED FOR FY 1984 FOR THE SOUTH ATLANTIC DIVISION
(CONTRACT AMOUNTS EQUAL OR GREATER THAN $1000000)

SORT: DIVISION, PROJECT DESCRIPTION, LINE ITEM DESCRIPTION

PROJECT NAME ++++++++++++++ DESCRIPTION OF WORK	EST AWARD DATE	CONTRACT AMOUNT ($000)	FY 1984 REQ'MT ($000)	BALANCE TO COMPLETE ($000)
B. EVERETT JORDAN DAM AND LAKE				
FISH & WILDLIFE FACILITIES	JUL 84	4006	400	3606
PARKERS CREEK RECREATION AREAS AND BEACH	NOV 83	4901	3850	1051
PUBLIC SERVICE GAS CO.	MAR 84	2296	2296	0
***** PROJECT TOTAL		11203	6546	4657
CENTRAL AND SOUTHERN FLORIDA				
HERBERT HOOVER LEEVE REACH 5(PART) & REACH 6(PART)	SEP 84	3910	0	3910
HERBERT HOOVER LEVEE REACH 2	JUN 84	1360	170	1190
HERBERT HOOVER LEVEE REACH 6(PART) AND REACH 1(PART)	MAY 84	4130	510	3620
***** PROJECT TOTAL		9400	680	8720
COOPER RIVER				
EMERGENCY BY-PASS	MAR 84	1481	1481	0
***** PROJECT TOTAL		1481	1481	0
DADE COUNTY				
BEACH RENOURISHMENT (HAULOVER PARK-63RD ST)	APR 84	2889	1673	1216
***** PROJECT TOTAL		2889	1673	1216
DUVAL COUNTY, FL				
RENOURISHMENT OF SECTIONS 1 & 2	APR 84	4905	1501	3404
***** PROJECT TOTAL		4905	1501	3404
FALLS LAKE				
ROLLING VIEW RECREATION AREA	SEP 84	9458	0	9458
***** PROJECT TOTAL		9458	0	9458
PALM BEACH COUNTY (REIMB)				
DELRAY BEACH RENOURISHMENT	APR 84	2100	0	2100
***** PROJECT TOTAL		2100	0	2100

DATE 03/29/84 NEW CONTRACT AWARDS SCHEDULED FOR FY 1984 FOR THE SOUTH ATLANTIC DIVISION
(CONTRACT AMOUNTS EQUAL OR GREATER THAN $1000000)

SORT: DIVISION, PROJECT DESCRIPTION, LINE ITEM DESCRIPTION

PROJECT NAME +++++++++++++ DESCRIPTION OF WORK	EST AWARD DATE	CONTRACT AMOUNT ($000)	FY 1984 REQ'MT ($000)	BALANCE TO COMPLETE ($000)
PORTUGUES & BUCANNA RIVERS				
BUCANA DEBRIS BASIN EXCAVATION	MAY 84	5741	1500	4241
CERRILLOS DAM	MAY 84	86477	4000	82477
PORTUGUES DEBRIS BASIN STRUCTURE	JUN 84	3952	1200	2752
PORTUGUES DEBRIS BASIN EXCAVATION	SEP 84	7428	0	7428
UPPER PORTUGUES CHANNEL SECTION 6D	SEP 84	2394	0	2394
UPPER PORTUGUES CHANNEL SECTION 7	JAN 84	2490	1300	1190
***** PROJECT TOTAL		108482	8000	100482
RICHARD B RUSSELL DAM & LAKE				
ADMINISTRATION & OPERATION ROADS	JUN 84	1631	100	1531
OXYGEN STORAGE FACILITY	DEC 83	2500	2500	0
PUMP STORAGE TURBINES	MAR 84	32748	1000	31748
RESOURCE MANAGEMENT CENTER	JUN 84	1254	105	1149
SCL ROCKY RIVER RR RELOCATION	MAR 84	5860	1000	4860
SOUTH CAROLINA ACCESS ROAD TO RECREATION FACILITIES	APR 84	2026	2026	0
***** PROJECT TOTAL		46019	6731	39288
TAMPA HARBOR				
DREDGING CUTS C,D,E AND SECTION 2C	MAR 84	27398	8831	18567
***** PROJECT TOTAL		27398	8831	18567
TENNESSEE-TOMBIGBEE WATERWAY				
ALICEVILLE-HYDROMET SYSTEM	MAR 84	4880	600	4280
BAY SPRINGS-RES MANAGEMENT AND MAINT	JAN 84	3721	1871	1850
COLUMBUS - AREA OFFICE	MAR 84	3370	1122	2248
DIVIDE CUT - EROSION CONTROL FY84	OCT 83	2755	2755	0
***** PROJECT TOTAL		14726	6348	8378
***** DIVISION TOTAL FOR SOUTH ATLANTIC		238061	41791	196270

DATE 03/29/84 NEW CONTRACT AWARDS SCHEDULED FOR FY 1984 FOR THE SOUTH PACIFIC DIVISION
(CONTRACT AMOUNTS EQUAL OR GREATER THAN $1000000)

SORT: DIVISION, PROJECT DESCRIPTION, LINE ITEM DESCRIPTION

PROJECT NAME +++++++++++++ DESCRIPTION OF WORK	EST AWARD DATE	CONTRACT AMOUNT ($000)	FY 1984 REQ'MT ($000)	BALANCE TO COMPLETE ($000)
CUCAMONGA CREEK, CA				
CUCAMONGA CRK, PRADO RES TO DEB BSN DEMENS CK EROS CTRL 2	JUL 84	2311	643	1668
***** PROJECT TOTAL		2311	643	1668
DRY CREEK (WARM SPRINGS) LAKE AND CHANNEL, CA				
COUNTY ROAD REPAIR 20 MILES	JUL 84	5000	1500	3500
RECREATION-BOAT LAUNCH RAMP	JUL 84	2000	400	1600
ROCKPILE ROAD UPGRADE, UNIT NO.5	JUN 84	7500	3000	4500
SPILLWAY REPAIR	MAY 84	5000	2300	2700
VEGETATIVE MGT, TREE PLANTING, FERTILIZATION & BURNING	MAY 84	1270	340	930
***** PROJECT TOTAL		20770	7540	13230
IMPERIAL BEACH, CA				
SUBMERGED OFFSHORE BREAKWATER	MAY 84	4853	3979	874
***** PROJECT TOTAL		4853	3979	874
LOS ANGELES COUNTY DRAINAGE AREA, CA (LOS ANGELES RIVER)				
LOW FLOW CHANNEL (UPRR TO 4TH ST)	MAY 84	4000	4000	0
***** PROJECT TOTAL		4000	4000	0
NEW MELONES LAKE, CA				
ADM BLDG LOWER STANISLAUS RIVER	MAR 84	1100	600	500
TUTTLETOWN MIN. RECREATION FACILITIES	AUG 84	2100	700	1400
***** PROJECT TOTAL		3200	1300	1900
SACRAMENTO RIVER BANK PROTECTION PROJECT, CA				
BANK PROTECTION, UNIT 37	JUN 84	4000	1800	2200
BANK PROTECTION, UNIT 38	JUL 84	1200	1200	0
***** PROJECT TOTAL		5200	3000	2200
SACRAMENTO RIVER, CHICO LANDING TO RED BLUFF, CA				
BANK PROTECTION, UNIT 7	JUL 84	2650	1650	1000

DATE 03/29/84 NEW CONTRACT AWARDS SCHEDULED FOR FY 1984 FOR THE SOUTH PACIFIC DIVISION
(CONTRACT AMOUNTS EQUAL OR GREATER THAN $1000000)

SORT: DIVISION,PROJECT DESCRIPTION,LINE ITEM DESCRIPTION

PROJECT NAME ++++++++++++++ DESCRIPTION OF WORK	EST AWARD DATE	CONTRACT AMOUNT ($000)	FY 1984 REQ'MT ($000)	BALANCE TO COMPLETE ($000)
***** PROJECT TOTAL		2650	1650	1000
SAN FRANCISCO BAY TO STOCKTON, CA				
JERSEY ISLAND TO NEW YORK SLOUGH	AUG 84	2700	1850	850
SOUTHAMPTON CHANNEL & RICHMOND LONG WHARF MANEUVERING AREA	JUL 84	50660	3500	47160
***** PROJECT TOTAL		53360	5350	48010
SWEETWATER RIVER, CA				
RR BRIDGES & CHANNEL A2 CONTRACT	JUL 84	6825	1674	5151
***** PROJECT TOTAL		6825	1674	5151
***** DIVISION TOTAL FOR SOUTH PACIFIC		103169	29136	74033

DATE 03/29/84　NEW CONTRACT AWARDS SCHEDULED FOR FY 1984 FOR THE (CONTRACT AMOUNTS EQUAL OR GREATER THAN $1000000)　SOUTHWESTERN　DIVISION

SORT: DIVISION, PROJECT DESCRIPTION, LINE !TEM DESCRIPTION

PROJECT NAME ++++++++++++++ DESCRIPTION OF WORK	EST AWARD DATE	CONTRACT AMOUNT ($000)	FY 1984 REQ'MT ($000)	BALANCE TO COMPLETE ($000)
ARCADIA LAKE, OK				
LT. ABUTMENT ACCESS RD. & PROJ BLDG. & OVERLOOK	JUL 84	1003	320	683
PUBLIC USE AREAS, STAGE I	APR 84	1642	730	912
PUBLIC USE AREAS, STAGE II-A	SEP 84	2900	0	2900
TURNER TURNPIKE	NOV 83	5345	3000	2345
***** PROJECT TOTAL		10890	4050	6840
CORPUS CHRISTI SHIP CHANNEL				
CONSTRUCT RETAINING WORKS FOR DREDGE MATERIALS (SUNTIDE AREA	SEP 84	7600	125	7475
***** PROJECT TOTAL		7600	125	7475
EL DORADO LAKE, KS				
RECREATION STAGE II	MAR 84	4182	2162	2020
***** PROJECT TOTAL		4182	2162	2020
EL PASO, TX				
BORDERLINE DIVERSION	JUN 84	7836	1148	6688
HIGHWAY DIVERSION	MAR 84	2559	2210	349
***** PROJECT TOTAL		10395	3358	7037
FREEPORT HARBOR, (RELOCATION OF NORTH JETTY)				
RELOCATION OF 3700' OF NORTH JETTY	APR 84	22222	3110	19112
***** PROJECT TOTAL		22222	3110	19112
JOE POOL LAKE				
COUNTY ROADS PT 3	JAN 84	1485	990	495
REC FAC PT 1	JUL 84	2073	200	1873
SOUTHERN PACIFIC RWY	FEB 84	3080	1500	1580
***** PROJECT TOTAL		6638	2690	3948
MOUTH OF COLORADO RIVER				
BREAKWATERS (E & W JETTIES)	DEC 83	13900	3700	10200

DATE 03/29/84 NEW CONTRACT AWARDS SCHEDULED FOR FY 1984 FOR THE SOUTHWESTERN DIVISION
(CONTRACT AMOUNTS EQUAL OR GREATER THAN $1000000)

SORT: DIVISION, PROJECT DESCRIPTION, LINE ITEM DESCRIPTION

PROJECT NAME +++++++++++++ DESCRIPTION OF WORK	EST AWARD DATE	CONTRACT AMOUNT ($000)	FY 1984 REQ'MT ($000)	BALANCE TO COMPLETE ($000)
***** PROJECT TOTAL		13900	3700	10200
RAY ROBERTS LAKE				
MOPAC RAILROAD	SEP 84	10689	275	10414
ROAD A	SEP 84	24474	25	24449
U.S. HIGHWAY 377	JUN 84	6894	200	6694
***** PROJECT TOTAL		42057	500	41557
SKIATOOK LAKE, OK				
FENCING	FEB 84	1471	1262	209
RT, ABUTMENT ACCESS ROAD AND COMPLETE EMBANKMENT	DEC 83	1687	1244	443
TALL CHIEF COVE REC AREA	MAR 84	1846	546	1300
***** PROJECT TOTAL		5004	3052	1952
TAYLORS BAYOU, TX				
SALT WATER GATE	FEB 84	2830	1550	1280
TAYLORS BAYOU DIVERSION CHAN STA 0+00 TO 152+92	JUN 84	8850	990	7860
***** PROJECT TOTAL		11680	2540	9140
***** DIVISION TOTAL FOR SOUTHWESTERN		134568	25287	109281
******************** GRAND TOTAL ALL DIVISIONS		1299979	213052	1086927

DATE 03/29/84 NEW CONTRACT AWARDS SCHEDULED FOR FY 1985 FOR THE LOWER MISS VALLEY DIVISION
(CONTRACT AMOUNTS EQUAL OR GREATER THAN $1000000)

SORT: DIVISION,PROJECT DESCRIPTION,LINE ITEM DESCRIPTION

PROJECT NAME ++++++++++++++ DESCRIPTION OF WORK	EST AWARD DATE	CONTRACT AMOUNT ($000)	FY 1985 REQ'MT ($000)	BALANCE TO COMPLETE ($000)
ATCHAFALAYA BASIN, LA				
E-99 SHEETPILE	FEB 85	29580	3500	26080
W-68.0 LEVEE ENLARGEMENT	OCT 84	14742	2700	12042
***** PROJECT TOTAL		44322	6200	38122
CHANNEL IMPROVEMENT				
BROWNS FIELD LA	SEP 85	1200	0	1200
COMMERCE, MS	JUL 85	1300	1300	0
COMMERCE,MS. (TF) JOBS BILL	JUN 85	1500	1500	0
RIPRAP PAVING	SEP 85	1184	0	1184
***** PROJECT TOTAL		5184	2800	2384
EAST ST. LOUIS & VICINITY				
ITEM 3 DITCHING CONTRACT	OCT 84	1433	500	933
***** PROJECT TOTAL		1433	500	933
KASKASKIA RIVER NAVIGATION				
CANAL EX-REV MI 32.3-35.9	JAN 85	12174	309	11865
***** PROJECT TOTAL		12174	309	11865
LAKE PONCHARTRAIN				
CITRUS BK. LV. STA. 176-574, 3RD LIFT	OCT 84	2803	2080	723
N.O.E. LKFT. LV PARIS RD.-SOUTHPT. FSP	APR 85	10948	2900	8048
STA. 370-682 FINAL ENLGT. (CHALMETTE UNIT)	JAN 85	2185	1250	935
***** PROJECT TOTAL		15936	6230	9706
LAROSE TO GOLDEN MEADOW				
LAROSE FLOODWALL	APR 85	2110	630	1480
SECT E SOUTH LV 1ST LIFT	OCT 84	3200	2000	1200
***** PROJECT TOTAL		5310	2630	2680
MISS R BTN OHIO MO REG WORK				
ELIZA. POINT CHANNEL REALINE PH-1	OCT 84	1150	550	600

DATE 03/29/84 NEW CONTRACT AWARDS SCHEDULED FOR FY 1985 FOR THE LOWER MISS VALLEY DIVISION
(CONTRACT AMOUNTS EQUAL OR GREATER THAN $1000000)

SORT: DIVISION, PROJECT DESCRIPTION, LINE ITEM DESCRIPTION

PROJECT NAME +++++++++++++ DESCRIPTION OF WORK	EST AWARD DATE	CONTRACT AMOUNT ($000)	FY 1985 REQ'MT ($000)	BALANCE TO COMPLETE ($000)
GREENFIELD BEND CHANNEL REAL. PH-1	OCT 84	1150	524	626
KASKASKIA BEND PH-1	APR 85	1725	300	1425
***** PROJECT TOTAL		4025	1374	2651
MISS. RIVER BATON ROUGE TO GULF				
BANK NOURISHMENT M. 1.4 R-4.0 R	FEB 85	6400	1500	4900
***** PROJECT TOTAL		6400	1500	4900
MISS. RIVER GULF OUTLET				
CHALMETTE AREA FORESHORE MRGO	JUN 85	19051	1400	17651
***** PROJECT TOTAL		19051	1400	17651
MISSISSIPPI RIVER LEVEES				
BARRACKS-MONTEGUT FW M 94.3-93 9-L	MAY 85	3143	519	2624
CANAL TOULOUSE FLOODWALL PHASE II	MAR 85	1910	1138	772
INDEPENDENCE IHNC FW	JAN 85	2774	897	1877
STATELINE WILSON PT KY ITEM 501-R	OCT 84	11989	3570	8419
STATELINE-WILSON PT KY ITEM 506-R	JAN 85	8924	850	8074
STATELINE WILSON PT KY ITEM 503-R	DEC 84	7986	2000	5986
STELLA-BELAIR GPLD M72.2-66.0 L	JAN 85	2065	1344	721
WATERPROOF BERM ITEM 385-R	NOV 84	3435	1245	2190
WILSON PT-PT LKOUT KY ITEM 489-R	JUN 85	7503	425	7078
***** PROJECT TOTAL		49729	11988	37741
NEW ORLEANS TO VENICE				
LV 1ST LIFT STA. 314-681	MAY 85	12100	1380	10720
LV FINAL ENLGT. STA. 0-170	MAR 85	2605	920	1685
LV FINAL ENLGT. STA. 373-635	OCT 84	3120	1540	1580
***** PROJECT TOTAL		17825	3840	13985
RED RIVER WATERWAY, MISS. RIV. TO SHREVEPORT				
GRAND BEND REAL & STAB (POOL 2) M.94-98	OCT 84	8120	2174	5946
MONCLA REVET. (POOL 1)	NOV 84	3040	1000	2040
NORTH ACCESS RD (POOL 1)	DEC 84	1926	1445	481

DATE 03/29/84 NEW CONTRACT AWARDS SCHEDULED FOR FY 1985 FOR THE LOWER MISS VALLEY DIVISION
(CONTRACT AMOUNTS EQUAL OR GREATER THAN $1000000)

SORT: DIVISION, PROJECT DESCRIPTION, LINE ITEM DESCRIPTION

PROJECT NAME ++++++++++++++ DESCRIPTION OF WORK	EST AWARD DATE	CONTRACT AMOUNT ($000)	FY 1985 REQ'MT ($000)	BALANCE TO COMPLETE ($000)
ONCE MORE WILSON CLS. (POOL 1) M.78.6-82.4	APR 85	4090	1748	2342
***** PROJECT TOTAL		17176	6367	10809
SARDIS LAKE DAM, MS				
BERM	AUG 85	8250	95	8155
***** PROJECT TOTAL		8250	95	8155
ST. FRANCIS RIVER & TRIBS.				
ITEM 2 BLACKFISH BAYOU	JUN 85	1719	200	1519
ITEM 2 BIG CREEK	DEC 84	1870	400	1470
STATE LINE OUTLET	MAY 85	3954	200	3754
***** PROJECT TOTAL		7543	800	6743
TENSAS BASIN (RED R BACKWATER EXC TENSAS-COCODRIE PP)				
SICILY ISLAND AREA ITEM 1B	OCT 84	4415	1800	2615
***** PROJECT TOTAL		4415	1800	2615
WEST TENNESSEE TRIBUTARIES				
FOWLKES IT 1, PART 2 SFFD 4.4-9.0	MAY 85	1819	900	919
***** PROJECT TOTAL		1819	900	919
YAZOO BASIN - UPPER PROJECTS				
CHANNEL ITEM NO. 2-B	OCT 84	2784	1144	1640
***** PROJECT TOTAL		2784	1144	1640
YAZOO BASIN TRIBUTARIES				
1 BRIDGE ITEM 2	OCT 84	2094	590	1504
***** PROJECT TOTAL		2094	590	1504
***** DIVISION TOTAL FOR LOWER MISS VALLEY		225470	50467	175003

DATE 03/29/84 NEW CONTRACT AWARDS SCHEDULED FOR FY 1985 FOR THE MISSOURI RIVER DIVISION
(CONTRACT AMOUNTS EQUAL OR GREATER THAN $1000000)

SORT: DIVISION,PROJECT DESCRIPTION,LINE ITEM DESCRIPTION

PROJECT NAME ++++++++++++++ DESCRIPTION OF WORK	EST AWARD DATE	CONTRACT AMOUNT ($000)	FY 1985 REQ'MT ($000)	BALANCE TO COMPLETE ($000)
CHATFIELD LAKE, CO				
CHANNEL STAGE 3	MAR 85	2029	300	1729
***** PROJECT TOTAL		2029	300	1729
HARRY S. TRUMAN DAM & RESERVOIR, MO				
ST. CLAIRE CO. JAIL	FEB 85	1090	200	890
***** PROJECT TOTAL		1090	200	890
LITTLE BLUE RIVER LAKES, MO				
REC FACILITIES (RAYTOWN PUA PH III)	MAR 85	2430	120	2310
***** PROJECT TOTAL		2430	120	2310
PAPILLION CREEK & TRIBUTARIES LAKES, NE				
REC FACILITIES SITE 18	OCT 84	1984	792	1192
***** PROJECT TOTAL		1984	792	1192
***** DIVISION TOTAL FOR MISSOURI RIVER		7533	1412	6121

DATE 03/29/84 NEW CONTRACT AWARDS SCHEDULED FOR FY 1985 FOR THE NORTH ATLANTIC DIVISION
(CONTRACT AMOUNTS EQUAL OR GREATER THAN $1000000)

SORT: DIVISION,PROJECT DESCRIPTION,LINE ITEM DESCRIPTION

PROJECT NAME ************* DESCRIPTION OF WORK	EST AWARD DATE	CONTRACT AMOUNT ($000)	FY 1985 REQ MT ($000)	BALANCE TO COMPLETE ($000)
NEW YORK HARBOR COLLECTION & REMOVAL OF DRIFT, NY				
WEEHAWKEN TO EDGEWATER, NJ	APR 85	3130	640	2490
***** PROJECT TOTAL		3130	640	2490
WYOMING VALLEY, PA				
RELIEF WELLS AT WILKES BARRE-KINGSTON	OCT 84	1230	1230	0
WEIGHTED FILTER DRAINS	OCT 84	6680	4665	2015
***** PROJECT TOTAL		7910	5895	2015
***** DIVISION TOTAL FOR NORTH ATLANTIC		11040	6535	4505

DATE 03/29/84 NEW CONTRACT AWARDS SCHEDULED FOR FY 1985 FOR THE NORTH CENTRAL DIVISION
(CONTRACT AMOUNTS EQUAL OR GREATER THAN $1000000)

SORT: DIVISION, PROJECT DESCRIPTION, LINE ITEM DESCRIPTION

PROJECT NAME DESCRIPTION OF WORK	EST AWARD DATE	CONTRACT AMOUNT ($000)	FY 1985 REQ'MT ($000)	BALANCE TO COMPLETE ($000)
BASSETT CREEK, MN				
DOWNSTREAM REACH TUNNEL	JUL 85	14800	5540	9260
UPSTREAM RELOCATIONS A3(MC)	FEB 85	2982	1789	1193
***** PROJECT TOTAL		17782	7329	10453
DAVENPORT, IA				
STG III STRUCT. WORK	JUL 85	5240	730	4510
***** PROJECT TOTAL		5240	730	4510
ELLICOTT CREEK				
STG II B3 (MC)	JUL 85	9715	1595	8120
***** PROJECT TOTAL		9715	1595	8120
IWW, BRANDON ROAD L&D, IL				
RESURFACING	DEC 84	1990	1270	720
***** PROJECT TOTAL		1990	1270	720
PRESQUE ISLE PENINSULA, ERIE, PA				
BEACH NOURISHMENT	MAR 85	1655	1655	0
***** PROJECT TOTAL		1655	1655	0
***** DIVISION TOTAL FOR NORTH CENTRAL		36382	12579	23803

DATE 03/29/84 NEW CONTRACT AWARDS SCHEDULED FOR FY 1985 FOR THE NORTH PACIFIC DIVISION
(CONTRACT AMOUNTS EQUAL OR GREATER THAN $1000000)

SORT: DIVISION, PROJECT DESCRIPTION, LINE ITEM DESCRIPTION

PROJECT NAME ++++++++++++++ DESCRIPTION OF WORK	EST AWARD DATE	CONTRACT AMOUNT ($000)	FY 1985 REQ'MT ($000)	BALANCE TO COMPLETE ($000)
BONNEVILLE 2ND POWERHOUSE				
BUILDINGS & GR SERV. BLDG & STS MAINT FAC.	JAN 85	3800	2000	1800
FISH & WILDLIFE FACILITIES STS CRANE	JUL 85	1075	250	825
POWER PLANT TRASH REMOVAL SYSTEM	JAN 85	1318	1000	318
***** PROJECT TOTAL		6193	3250	2943
CHENA RIVER LAKES				
BUILDINGS & G VISITOR CENTER	APR 85	1340	683	657
***** PROJECT TOTAL		1340	683	657
LOWER SNAKE F & WL COMPENSATION				
F & WL FACIL-CRYSTAL SPRINGS STEELHEAD HATCHEY ID	MAR 85	8139	1041	7098
F&WL FAC IRRIGON SAT FAC TRAP SPN&ACC BIG CANYON	OCT 84	1102	1102	0
F&WL FACIL LOOKINGLASS SAT TRAP SPN @ ACC IMNAHA	MAY 85	1660	593	1067
***** PROJECT TOTAL		10901	2736	8165
MILL CREEK LAKE, WA				
CHANNELS & CANALS-COMPLETE CHANNEL REHAB	APR 85	2674	1305	1369
***** PROJECT TOTAL		2674	1305	1369
***** DIVISION TOTAL FOR NORTH PACIFIC		21108	7974	13134

DATE 03/29/84

NEW CONTRACT AWARDS SCHEDULED FOR FY 1985 FOR THE OHIO RIVER DIVISION
(CONTRACT AMOUNTS EQUAL OR GREATER THAN $1000000)

SORT: DIVISION, PROJECT DESCRIPTION, LINE ITEM DESCRIPTION

PROJECT NAME ************* DESCRIPTION OF WORK	EST AWARD DATE	CONTRACT AMOUNT ($000)	FY 1985 REQ'MT ($000)	BALANCE TO COMPLETE ($000)
BEECH FORK LAKE, WV				
REMEDIAL WORK/ROADS	JAN 85	1190	940	250
***** PROJECT TOTAL		1190	940	250
BIG SOUTH FORK, KY & TN				
BLUE HERON ACCESS PART 2	MAR 85	3354	1300	2054
***** PROJECT TOTAL		3354	1300	2054
EVANSVILLE, IN				
LEVEE, FLOODWALL, PUMPING PLANT PART 3	JUN 85	9671	1500	8171
STRINGTOWN ROAD US HWY 41 PART 3	OCT 84	2780	550	2230
***** PROJECT TOTAL		12451	2050	10401
LEVISA & TUG FORKS-BIG SANDY RIV & UPPER CUMBERLAND RIV				
LEVEE/FLOODWALL/HIGHWAY & PINEVILLE HOSPITAL EXTENSION WALL	JAN 85	15227	2111	13116
PINEVILLE PUMP STATION	JUN 85	1275	280	995
UPSTREAM HWY SEGMENT	APR 85	1267	112	1155
***** PROJECT TOTAL		17769	2503	15266
LOCKS & DAM 53, IL & KY				
REPAIR BEARTRAPS, LEAVES & INSTALL MACHINERY	JUL 85	1256	490	766
***** PROJECT TOTAL		1256	490	766
MILL CREEK, OH				
BARRIER DAM SEC 8	JUN 85	21388	500	20888
CHANNEL & LEVEE, SEC 4	APR 85	20136	1500	18636
MODIFY RR BRIDGE SEC 5	APR 85	2064	580	1434
MODIFY RR BRIDGE SEC 4	OCT 84	2553	2300	253
***** PROJECT TOTAL		46141	4880	41261
MONTGOMERY LOCKS & DAM, PA				
LOCKS & DAM REHAB.	JAN 85	22320	4700	17620

DATE 03/29/84 NEW CONTRACT AWARDS SCHEDULED FOR FY 1985 FOR THE OHIO RIVER DIVISION
(CONTRACT AMOUNTS EQUAL OR GREATER THAN $1000000)

SORT: DIVISION,PROJECT DESCRIPTION,LINE ITEM DESCRIPTION

PROJECT NAME +++++++++++++ DESCRIPTION OF WORK	EST AWARD DATE	CONTRACT AMOUNT ($000)	FY 1985 REQ'MT ($000)	BALANCE TO COMPLETE ($000)
***** PROJECT TOTAL		22320	4700	17620
MUSKINGUM RIVER LAKES, OH (REHAB)				
MOHAWK DAM STABILIZATION	AUG 85	5700	200	5500
***** PROJECT TOTAL		5700	200	5500
SMITHLAND LOCKS & DAM, IL, IN & KY				
LUSK CREEK BOAT RAMP	JUN 85	2017	186	1831
***** PROJECT TOTAL		2017	186	1831
SOUTHWESTERN JEFFERSON COUNTY, KY				
LEVEE SEC 5 & POND CREEK STRUCTURE	FEB 85	17924	2600	15324
***** PROJECT TOTAL		17924	2600	15324
STONEWALL JACKSON LAKE, WV				
RELOCATIONS-REMAINING HWYS RTS 44 & 46	MAY 85	5700	900	4800
RESERVOIR CLEARING	APR 85	1610	1200	410
ROANOKE BAY MAINTENANCE COMPLEX	MAR 85	1800	500	1300
RR TRACK RELOCATION	MAY 85	3465	1500	1965
***** PROJECT TOTAL		12575	4100	8475
TAYLORSVILLE LAKE, KY				
SETTLERS TRACE REC PHASE II	OCT 84	1948	580	1368
SETTLERS TRACE REC PHASE III	OCT 84	2341	377	1964
***** PROJECT TOTAL		4289	957	3332
***** DIVISION TOTAL FOR OHIO RIVER		146986	24906	122080

DATE 03/29/84 NEW CONTRACT AWARDS SCHEDULED FOR FY 1985 FOR THE PACIFIC OCEAN DIVISION
(CONTRACT AMOUNTS EQUAL OR GREATER THAN $1000000)

SORT: DIVISION, PROJECT DESCRIPTION, LINE ITEM DESCRIPTION

PROJECT NAME DESCRIPTION OF WORK		EST AWARD DATE	CONTRACT AMOUNT ($000)	FY 1985 REQ'MT ($000)	BALANCE TO COMPLETE ($000)
BARBERS POINT HARBOR, HI					
BEAUTIFICATION		DEC 84	1000	1000	0
***** PROJECT TOTAL			1000	1000	0
***** DIVISION TOTAL FOR	PACIFIC OCEAN		1000	1000	0

DATE 03/29/84 NEW CONTRACT AWARDS SCHEDULED FOR FY 1985 FOR THE SOUTH ATLANTIC DIVISION
(CONTRACT AMOUNTS EQUAL OR GREATER THAN $1000000)

SORT: DIVISION, PROJECT DESCRIPTION, LINE ITEM DESCRIPTION

PROJECT NAME ++++++++++++++ DESCRIPTION OF WORK	EST AWARD DATE	CONTRACT AMOUNT ($000)	FY 1985 REQ MT ($000)	BALANCE TO COMPLETE ($000)
B. EVERETT JORDAN DAM AND LAKE				
POPLAR POINT RECREATION AREA	OCT 84	10831	3467	7364
***** PROJECT TOTAL		10831	3467	7364
CENTRAL AND SOUTHERN FLORIDA				
MARTIN COUNTY CHANNEL C-131	OCT 84	3175	995	2180
WEST PALM BEACH PUMP PLANT (S-319) MACHINERY	OCT 84	6850	437	6413
***** PROJECT TOTAL		10025	1432	8593
DADE COUNTY				
BEACH RENOURISHMENT (63RD ST-37TH ST)	SEP 85	2723	0	2723
***** PROJECT TOTAL		2723	0	2723
FALLS LAKE				
BEAVERDAM RECREATION AREA	JUL 85	3559	834	2725
FISH AND WILDLIFE SUBIMPOUNDMENTS	JUN 85	4083	1000	3083
STATE O&M FACILITIES AND RECREATION AREA	JUL 85	1485	465	1020
***** PROJECT TOTAL		9127	2299	6828
FOUR RIVER BASINS				
FLATWOODS AND TROUT CREEK RECREATION (PHASE III)	DEC 84	1455	455	1000
***** PROJECT TOTAL		1455	455	1000
PORTUGUES & BUCANNA RIVERS				
CERRILLOS RESERVOIR CLEARING	MAY 85	1673	200	1473
LOWER BUCANA CHANNEL RECREATION	JUN 85	1524	350	1174
UPPER PORTUGUES CHANNEL SECTION 6E	MAY 85	2892	1100	1792
UPPER PORTUGUES CHANNEL SECTION 6F	MAY 85	3933	1500	2433
***** PROJECT TOTAL		10022	3150	6872
RICHARD B. RUSSELL DAM & LAKE				
PUMP STORAGE GENERATORS	MAY 85	21975	2000	19975

DATE 03/29/84 NEW CONTRACT AWARDS SCHEDULED FOR FY 1985 FOR THE SOUTH ATLANTIC DIVISION
(CONTRACT AMOUNTS EQUAL OR GREATER THAN $1000000)

SORT: DIVISION,PROJECT DESCRIPTION,LINE ITEM DESCRIPTION

PROJECT NAME +++++++++++++ DESCRIPTION OF WORK	EST AWARD DATE	CONTRACT AMOUNT ($000)	FY 1985 REQ'MT ($000)	BALANCE TO COMPLETE ($000)
PUMP STORAGE TAILRACE	JUN 85	4559	1000	3559
REMAINING SC RECREATION FACILITIES	JUL 85	6601	100	6501
REMAINING GA RECREATION FACILITIES	JUL 85	2086	100	1986
***** PROJECT TOTAL		35221	3200	32021
TENNESSEE-TOMBIGBEE WATERWAY				
ALICEVILLE-PLYMOUTH BLUFF RECREATION	OCT 84	3500	1689	1811
ALICEVILLE-EROSION CONTROL FY85	OCT 84	2520	2520	0
BAY SPRINGS - CROWS NECK RECREATION	OCT 84	3800	1800	2000
COLUMBUS-EROSION CONTROL FY85	OCT 84	2150	2150	0
COLUMBUS-SPARE PARTS FY85	OCT 84	7150	7150	0
DIVIDE CUT-EROSION CONTROL FY85	OCT 84	1250	1250	0
GAINESVILLE-EROSION CONTROL FY85	OCT 84	1250	1250	0
LOCK B-EROSION CONTROL FY85	OCT 84	6930	6930	0
LOCK C-EROSION CONTROL FY85	OCT 84	8861	8861	0
LOCK C-EROSION CONTROL FY85	OCT 84	3500	3500	0
***** PROJECT TOTAL		40911	37100	3811
TOMBIGBEE RIVER AND TRIBUTARIES				
INTERIM MEASURES PHASE III (REM)	JAN 85	4325	582	3743
***** PROJECT TOTAL		4325	582	3743
***** DIVISION TOTAL FOR SOUTH ATLANTIC		124640	51685	72935

DATE 03/29/84 NEW CONTRACT AWARDS SCHEDULED FOR FY 1985 FOR THE SOUTH PACIFIC DIVISION
(CONTRACT AMOUNTS EQUAL OR GREATER THAN $1000000)

SORT: DIVISION,PROJECT DESCRIPTION,LINE ITEM DESCRIPTION

PROJECT NAME +++++++++++++ DESCRIPTION OF WORK	EST AWARD DATE	CONTRACT AMOUNT ($000)	FY 1985 REQ'MT ($000)	BALANCE TO COMPLETE ($000)
DRY CREEK (WARM SPRINGS) LAKE AND CHANNEL, CA				
RECREATION-LAKE SONOMA BEACH AREA	JUN 85	1500	1200	300
VEGETATIVE MGT, FENCING	JUN 85	2590	520	2070
***** PROJECT TOTAL		4090	1720	2370
FAIRFIELD VICINITY STREAMS				
MCCOY CREEK CHANNEL, LAUREL DVR & LAUREL CREEK AA03 CONTRACT	JUL 85	3520	950	2570
***** PROJECT TOTAL		3520	950	2570
FISHERMAN'S WHARF AREA, CA				
BREAKWATER A1	FEB 85	16600	3560	13040
***** PROJECT TOTAL		16600	3560	13040
LOS ANGELES COUNTY DRAINAGE AREA, CA (LOS ANGELES RIVER)				
CHANNEL INVERT (SEPULVEDA DAM BASIN)	APR 85	2400	2400	0
CHANNEL INVERT TOE (LOS FELIZ TO FLETCHER DR)	APR 85	1030	1030	0
LOW FLOW CHANNEL (4TH ST. TO WASHINGTON BLVD.)	APR 85	1720	1720	0
LOW FLOW CHANNEL (DAYTON AVE. TO N. MAIN ST)	APR 85	2400	2400	0
***** PROJECT TOTAL		7550	7550	0
MERCED COUNTY STREAMS, CA				
BEAR LAKE - MAIN DAM B05 CONTRACT	JUN 85	26940	3600	23340
CASTLE LAKE-MAIN DAM A06 CONTRACT	OCT 84	4890	3100	1790
***** PROJECT TOTAL		31830	6700	25130
NEW MELONES LAKE, CA				
RESERVOIR CLEARING PHASE 2 PART 2	OCT 84	1340	950	390
***** PROJECT TOTAL		1340	950	390
PAJARO RIVER, CA				
UVAS CREEK CHANNELS	APR 85	1110	1110	0

DATE 03/29/84 NEW CONTRACT AWARDS SCHEDULED FOR FY 1985 FOR THE SOUTH PACIFIC DIVISION
(CONTRACT AMOUNTS EQUAL OR GREATER THAN $1000000)

SORT: DIVISION, PROJECT DESCRIPTION, LINE ITEM DESCRIPTION

PROJECT NAME +++++++++++++ DESCRIPTION OF WORK	EST AWARD DATE	CONTRACT AMOUNT ($000)	FY 1985 REQ'MT ($000)	BALANCE TO COMPLETE ($000)
***** PROJECT TOTAL		1110	1110	0
SACRAMENTO RIVER BANK PROTECTION PROJECT, CA				
BANK PROTECTION, UNIT 39	SEP 85	4400	200	4200
***** PROJECT TOTAL		4400	200	4200
SACRAMENTO RIVER, CHICO LANDING TO RED BLUFF, CA				
BANK PROTECTION, UNIT 8	JUL 85	2840	600	2240
***** PROJECT TOTAL		2840	600	2240
SAN FRANCISCO BAY TO STOCKTON, CA				
NEW YORK SLOUGH TO AVON	AUG 85	15450	1230	14220
***** PROJECT TOTAL		15450	1230	14220
SAN LUIS REY RIVER				
LEVEES PILGRIM CREEK TO NARROWS WITH GROINS	MAY 85	18600	10000	8600
***** PROJECT TOTAL		18600	10000	8600
WALNUT CREEK, CA				
SAN RAMON BYPASS AND WALNUT CREEK	FEB 85	21505	7800	13705
UPPER PINE CREEK CHANNEL	JUN 85	14105	3500	10605
***** PROJECT TOTAL		35610	11300	24310
***** DIVISION TOTAL FOR SOUTH PACIFIC		142940	45870	97070

DATE 03/29/84 NEW CONTRACT AWARDS SCHEDULED FOR FY 1985 FOR THE SOUTHWESTERN DIVISION
(CONTRACT AMOUNTS EQUAL OR GREATER THAN $1000000)

SORT: DIVISION, PROJECT DESCRIPTION, LINE ITEM DESCRIPTION

PROJECT NAME DESCRIPTION OF WORK	EST AWARD DATE	CONTRACT AMOUNT ($000)	FY 1985 REQ'MT ($000)	BALANCE TO COMPLETE ($000)
ARCADIA LAKE, OK				
PUBLIC USE AREAS, STAGE II-B	MAR 85	6211	1000	5211
***** PROJECT TOTAL		6211	1000	5211
CORPUS CHRISTI SHIP CHANNEL				
BEACON 82 THRU & INCL CHEMICAL TB, SPILLWAYS & WEIR	DEC 84	17000	5800	11200
***** PROJECT TOTAL		17000	5800	11200
EL PASO, TX				
NORTHGATE AND RANGE DAMS	DEC 84	1549	1549	0
***** PROJECT TOTAL		1549	1549	0
HIGHLAND BAYOU				
HIGHLAND BAYOU-MI 0.0 TO 8.56	JAN 85	7369	579	6790
***** PROJECT TOTAL		7369	579	6790
JOE POOL LAKE				
ROAD 661	JAN 85	1978	1978	0
STATE RECREATION FACILITIES	MAY 85	11754	3800	7954
***** PROJECT TOTAL		13732	5778	7954
RAY ROBERTS LAKE				
BOUNDARY FENCING PT IV	OCT 84	1685	1685	0
COUNTY ROADS	OCT 84	3405	1100	2305
DENTON CO-ELEC LINE-LAKE AREA	FEB 85	1105	600	505
***** PROJECT TOTAL		6195	3385	2810
SAN ANTONIO CHANNEL IMPROVEMENT, TX				
TUNNEL SAR-UNIT 8-4,8-5 & 7-3-1	MAR 85	40128	6520	33608
***** PROJECT TOTAL		40128	6520	33608

DATE 03/29/84 NEW CONTRACT AWARDS SCHEDULED FOR FY 1985 FOR THE SOUTHWESTERN DIVISION
(CONTRACT AMOUNTS EQUAL OR GREATER THAN $1000000)

SORT: DIVISION,PROJECT DESCRIPTION,LINE ITEM DESCRIPTION

PROJECT NAME +++++++++++++ DESCRIPTION OF WORK		EST AWARD DATE	CONTRACT AMOUNT ($000)	FY 1985 REQ'MT ($000)	BALANCE TO COMPLETE ($000)
VINCE AND LITTLE VINCE BAYOUS, TX					
LITTLE VINCE BAYOU-MI 2.7 TO 4.2		JUN 85	528C	868	4412
***** PROJECT TOTAL			5280	868	4412
***** DIVISION TOTAL FOR	SOUTHWESTERN		97464	25479	71985
********************	GRAND TOTAL ALL DIVISIONS		814563	227907	586656

Senator ABDNOR. What new construction contracts were scheduled at the start of FY 1983, and which of these were awarded in FY 1983? What awards were made in FY 1983 that were not scheduled at the start of FY 1983?

Mr. GIANELLI. I will provide that information for the record.

FISCAL YEAR 1983 NEW CONTRACT AWARDS

Division/Project Name	Description of Work	Scheduled Award Date	Current Award Date 1/	Contract Amount $000
Pacific Ocean Division				
Barbers Point (Deep Draft) Harbor, HI	Project Beautification	Feb 1983	S Dec 1984	1,000
North Pacific Division				
Bonneville Second Powerhouse, OR & WA	Hamilton Island	Mar 1983	A Jul 1983	1,823
	Cascade Island	Jun 1983	A Jun 1983	1,125
	North Shore Area	Jun 1983	A May 1982	538
Chena River Lakes, AK	Recreation Area	Not Scheduled	A Mar 1983	3,840
	Armour Protection	Dec 1982	A Sep 1982	1,738
	Levee Protection	May 1983	S May 1984	9,337
	Channel West	Not Scheduled	A Jan 1983	3,809
Chief Joseph Additional Units, WA	Project Completion Works	Aug 1983	S Nov 1985	1,690
	Governor Systems	Not Scheduled	A Jul 1983	1,700
	Project Roads & Utilities	Dec 1982	A Sep 1982	2,300
	15 KV Circuit Breakers	Not Scheduled	A Apr 1983	5,000
	Generator Stator Rewind	Not Scheduled	A Jun 1983	12,000
	Installation and Fire Protection	Not Scheduled	A May 1983	3,700
	Transformers	Not Scheduled	A Jun 1983	6,500
John Day Lock & Dam - Lake Umatilla, OR & WA	Fingerling Collection Channel	Apr 1983	A Jan 1984	8,438
Lake Washington Ship Canal, WA (Major Rehabilitation)	East Guide & Small Lock Waiting Pier	Oct 1982	A Jan 1983	3,700

1/ A-Awarded; S-Scheduled.

FISCAL YEAR 1983 NEW CONTRACT AWARDS

Division/Project Name	Description of Work	Scheduled Award Date	Current Award Date 1/	Contract Amount $000
North Pacific Division (Cont'd)				
Libby Additional Units, MT	Turbines & Installation, Unit 5	Jul 1983	A Jan 1983	1,710
Lower Snake Fish & Wildlife Compensation, WA, OR & ID	Lyons Ferry Satellite Rearing Phase I-Cottonwood	Oct 1982	S Apr 1984	800
	Lyons Ferry Hatchery Phase II	Jan 1983	A May 1983	7,557
	Lyons Ferry Satellite Trap Spawn	Mar 1983	A Feb 1984	2,981
	Sawtooth Spring Chinook Hatchery	Dec 1982	A Mar 1983	9,421
	Irrigon Steelhead Hatchery	Dec 1982	A Feb 1984	8,877
	Irrigon Water Supply	Not Scheduled	A Jun 1983	2,173
Mill Creek Lake, WA	Additional Slope Protection	Mar 1983	A Mar 1983	752
Willamette River Bank Protection, OR	Stayton Location	Jun 1983	A Jun 1983	124
Siuslaw River and Bar, OR	Jetty Contract	Not Scheduled	A Jul 1983	27,700
South Pacific Division				
San Francisco Bay to Stockton, CA (John F. Baldwin and Stockton Ship Channels)	Channel Dredging	May 1983	A Aug 1983	4,400
Phoenix, AZ and Vicinity (Including New River) (Stage 2 and Remaining Work)	Detention Basin, Access Road, Operation Equipment	Jul 1983	A Aug 1983	12,148
Cucamonga Creek, CA (Basin & Demens Creek Channel)	Erosion Control	Aug 1983	S Jul 1984	2,311
San Jacinto River Levee and Bautista Creek Channel, CA	Levee Groins	Mar 1983	A Mar 1983	1,338

1/ A-Awarded; S-Scheduled.

FISCAL YEAR 1983 NEW CONTRACT AWARDS

Division/Project Name	Description of Work	Scheduled Award Date	Current Award Date 1/	Contract Amount $000
New England Division				
Fall River Harbor, MA & RI	Dredge Tiverton and Mt. Hope Bay Channels	Apr 1983	Not scheduled	42,000
North Atlantic Division				
New York Harbor Collection & Removal of Drift, NY & NJ	Hoboken, NJ	Not Scheduled	A Sep 1983	1,830
	Elizabeth, NJ	Oct 1982	A Nov 1982	5,430
	Stapleton Island, NY	Not Scheduled	A Sep 1983	2,820
Wyoming Valley, PA	Weighted Filter Drains-Kingston/Forty Fort	Jun 1983	A Jul 1983	2,145
	Sheet Piling	Jun 1983	A Jul 1983	2,600
Ocean City Harbor and Sinepuxent Bay, MD (Major Rehabilitation)	South Jetty Rehabilitation	Not Scheduled	A Sep 1983	3,430
Missouri River Division				
Little Blue River Lakes, MO	Road Relocations, Woods Chapel Rd. Phase II	Mar 1983	S Mar 1984	4,885
Chatfield Lake, CO	Stage I Channels	Nov 1982	S Mar 1984	1,475
	Stage II Channels	Apr 1983	S Jul 1984	2,028
Missouri River Levee System, IA, KS, NE, MO	Stage 3 Levees	Oct 1982	A Jun 1982	2,615
Papillion Creek & Tributaries Lakes, NE	Relocations Douglas Co. Road (Site 18)	Jan 1983	A Aug 1983	594
	Dam & Structure, Reservoir Clearing, etc. (Site 18)	Nov 1982	A Apr 1983	3,590

1/ A-Awarded; S-Scheduled.

FISCAL YEAR 1983 NEW CONTRACT AWARDS

Division/Project Name	Description of Work	Scheduled Award Date	Current Award Date 1/	Contract Amount $000
Ohio River Division				
Big South Fork, KY & TN	Bandy Creek Road and Recreation Facility	Jan 1983	A May 1983	6,600
Evansville, IN	Diamond Ave. & Stringtown Rd.-Pumps & Structures	Mar 1983	S Jun 1985	9,671
Locks and Dams 53, IL & KY (Major Rehabilitation)	Repair Beartraps & Leaves & Install Machinery	Jun 1983	S Jul 1985	1,256
Mill Creek, OH	Modify Railroad Bridge, Sec. 4	Mar 1983	S Oct 1984	2,553
Muskingum River Lakes, OH (Dam Safety)	Charles Mill	Jul 1983	S May 1984	1,130
	Pleasant Hill	Jun 1983	Not Scheduled	5,320
Muskingum River Lakes, OH (Major Rehabilitation)	Stabilize Mohawk Dam-Part 2	Jun 1983	S Aug 1985	5,700
	Stabilize Pleasant Hill Dam	Mar 1983	S Mar 1989	6,300
Montgomery Locks and Dam, PA (Major Rehabilitation)	Fabricate and Install 110-foot Miter Gates	Not Scheduled	A Aug 1983	2,220
Stonewall Jackson Lake, WV	Relocate US Rt 19, Sec. 3	Aug 1983	A Nov 1982	4,200
	Relocate Equitable Gas Company Phase II Piping	Jul 1983	S Jun 1984	1,300
	Relocate Equitable Gas Company Access Roads	Jul 1983	S Jul 1984	3,390
	Consolidated Gas Supply Corp. Relocation (Misc.)	Oct 1982	A Oct 1982	1,340
	Fabricate Dam Sluice Gates	Oct 1982	A Sep 1982	1,200
	Dam Construction	Not Scheduled	A Jul 1983	17,600

1/ A-Awarded; S-Scheduled.

FISCAL YEAR 1983 NEW CONTRACT AWARDS

Divison/Project Name	Description of Work	Scheduled Award Date	Current Award Date 1/	Contract Amount $000
Ohio River Division (cont'd)				
Taylorsville Lake, KY				
	Relocate KY Highway 44-Site K-1	Nov 1982	A Aug 1983	2,300
	Settlers Trace Recreation Area-Phase II	Mar 1983	S Oct 1984	1,948
	Anderson Co. Road-Site A-2	Not Scheduled	A Jul 1983	1,145
	Chowning Lane-Ramp	Not Scheduled	A Jul 1983	1,012
Southwestern Jefferson County, KY				
	Levee Section 4	Not Scheduled	A Oct 1982	4,695
Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River, WV, VA & KY	West Williamson Pump Station	Not Scheduled	A Apr 1983	2,500
Southwestern Division				
Arkansas-Red River Basins Chloride Control, TX (Area VIII)	Knox County Roads	Oct 1982	A Jan 1983	1,425
El Dorado Lake, KS				
	Recreation Structures Facilities, and Beautification and State Office and Maintenance Buildings	Mar 1983	S Mar 1984	4,182
Joe Pool Lake, TX				
	Road 661	Jun 1983	A Jan 1983	1,978
	County Roads Pt II	Apr 1983	A Sep 1982	5,115
	County Roads Pt III	Aug 1983	A Jan 1984	1,485
	Relocation-Southern Pacific Railway	Nov 1982	A Feb 1984	3,080
	TP&L Electric Lines-Lake Area	Not Scheduled	A May 1983	1,360

1/ A-Awarded; S-Scheduled.

FISCAL YEAR 1983 NEW CONTRACT AWARDS

Division/Project Name	Description of Work	Scheduled Award Date	Current Award Date 1/	Contract Amount $000
Southwestern Division (cont'd)				
Ray Roberts Lake, TX				
	Road A (372)	Aug 1983	S Sep 1984	24,474
	Road 455 Pt I & II	Apr 1983	A Aug 1983	4,250
	Road 922	Jun 1983	A Feb 1983	3,828
	County Roads	Jun 1983	S Oct 1984	3,405
San Antonio Channel Improvement, TX				
	Tunnel Units 7-3-1, 8-4 and 8-5	Jul 1983	S Mar 1985	40,128
Skiatook Lake, OK				
	Reservoir Clearing	Oct 1982	A Jun 1983	2,143
	Bow Pipeline Co.	Not Scheduled	A Feb 1983	2,150
Vince and Little Vince Bayou, TX				
	Little Vince Bayou-Mile 0.7 to Mile 2.7	Apr 1983	A Sep 1983	5,520
Corpus Christi Ship Channel, TX				
	Construction of Retaining Works-Area 1 and Rincon	Not Scheduled	A Aug 1983	2,050
El Paso, TX				
	Keystone Dam Outlet Conduit	Not Scheduled	A Mar 1983	3,395
Grapevine Lake, TX (Major Rehabilitation)				
	Embankment, Spillway, Road and Recreation	Not Scheduled	A Sep 1983	10,038
North Central Division				
Bettendorf, IA				
	Levee, Floodwall	Mar 1983	A Dec 1983	2,725
	Pump Plant Construction	Mar 1983	A Mar 1983	1,990

1/ A-Awarded; S-Scheduled.

FISCAL YEAR 1983 NEW CONTRACT AWARDS

Division/Project Name	Description of Work	Scheduled Award Date	Current Award Date 1/	Contract Amount $000
North Central Division (cont'd)				
Big Stone Lake and Whetstone River, MN & SD	Big Stone Lake Outlet Structure and MN River Channel	Apr 1983	A May 1983	1,249
Illinois Waterway-Lockport Lock, IL (Major Rehabilitation)	Replacement and Modification of Lock Gates & Machinery	Aug 1983	A Sep 1983	8,550
Milan, IL	Levees & Floodwalls, Stage IIB/IIIA	Not Scheduled	A Jul 1983	1,850
Presque Isle Peninsula, Erie, PA	Beach Nourishment	Mar 1983	A Mar 1983	1,053
Saylorville Lake, IA	Recreation Facilities Floodway Cooridor Stage II	Mar 1983	A Sep 1983	1,860
Waterloo, IA	Channel & Levee Blowers Creek, Unit C, Stage VG	Sep 1983	A Sep 1983	1,188
Winona, MN	Burns Valley Creek Channel Reach E-3 and Utility Relocation	Apr 1983	S Mar 1984	2,363
Lower Mississippi Valley Division				
East St. Louis and Vicinity, IL	Pumping Plants	Mar 1983	A Oct 1983	6,100
Kaskaskia Island Drainage and Levee District, IL	First Levee Second Levee	Jun 1983 Jul 1983	S Apr 1984 S Apr 1984	10,295 1,060

1/ A-Awarded; S-Scheduled.

FISCAL YEAR 1983 NEW CONTRACT AWARDS

Division/Project Name	Description of Work	Scheduled Award Date	Current Award Date 1/	Contract Amount $000
Lower Mississippi Valley Division (cont'd)				
Kaskaskia River Navigation, IL	Canal Excavation Mile 28.4 to 32.3	Apr 1983	A Sep 1983	8,500
Lake Pontchartrain, LA and Vicinity (Hurricane Protection)	Levee 2nd Lift Pipeline Canal	Dec 1982	A Jan 1983	1,562
Larose to Golden Meadow, LA (Hurricane Protection)	South Levee, Section E, 1st Lift	Jul 1983	S Oct 1984	3,200
	Larose Floodgate and Floodwall	Dec 1982	A Jun 1983	4,000
	Larose Floodwall	Dec 1982	S Apr 1985	2,110
Mississippi River Between the Ohio and Missouri Rivers (Regulating Works)	Rock Removal Mile 38.6 to 38	Aug 1983	A Sep 1983	1,500
New Orleans to Venice, LA (Hurricane Protection)	Levee 2nd Lift Station 244 to 473 (Reach B-2)	Not Scheduled	A Mar 1983	3,751
	Levee Enlargement Station 0 to 170 (Reach B-1)	Jun 1983	S Mar 1985	2,605
	Floodwall by Grand Laird Pump Station (Reach B-1)	Jul 1983	A Jul 1983	835
Wood River Drainage and Levee District, IL	Levee Raise Closure Structure	May 1983	S May 1984	940
McGee Creek Drainage & Levee District, IL	Pump Station	Not Scheduled	A May 1983	3,200
Red River Emergency Bank Protection, LA	Boyd Revetment	Not Scheduled	A Apr 1983	1,793
	Little River Revetment Phase II	Not Scheduled	A May 1983	1,004
	Clipper Revetment	Not Scheduled	A Jun 1983	1,460
	Mo-Pac Revetment	Not Scheduled	A Sep 1983	1,320

1/ A-Awarded; S-Scheduled.

FISCAL YEAR 1983 NEW CONTRACT AWARDS

Division/Project Name	Description of Work	Scheduled Award Date	Current Award Date 1/	Contract Amount $000
Lower Mississippi Valley Division (cont'd)				
Red River Waterway, Mississippi River to Shreveport, LA	Lower Gin Lake Realignment & Stabilization	Not Scheduled	A May 1983	5,240
	Wilson Point Realignment	Not Scheduled	A Sep 1983	5,900
	Barbin Revetment	Not Scheduled	A Jul 1983	1,400
	Once More Realignment	Not Scheduled	A May 1983	4,700
	Bijou Realignment & Stabilization	Not Scheduled	A May 1983	6,380
	Lock and Dam 2	Not Scheduled	A Nov 1982	119,300
	Marteau Realignment & Stabilization	Not Scheduled	A Jul 1983	9,250
	Pointfield Realignment & Stabilization	Not Scheduled	A Jul 1983	8,380
Mississippi River and Tributaries				
Atchafalaya Basin, LA	W-85.0B Levee Enlargement 1st Lift Sta. 4386-4502	Oct 1982	A Aug 1982	1,867
	Berwick Floodwall and Relocations	Jan 1983	A May 1983	9,957
	Morgan City Floodwall, 1st Contract	Oct 1982	A Feb 1983	3,299
	Morgan City Floodwall, 2d Contract	Not Scheduled	A Sep 1983	8,135
	E-52 Levee Enlargement Sta. 2590-2763	Not Scheduled	A Jul 1983	4,368
	E-54 Levee Sta. 2900-2940	Not Scheduled	A Jul 1983	1,100
	E-58.0/A Sta. 755-770	Not Scheduled	A May 1983	1,310
	E-40.0 Levee Enlargement Sta. 2010-2200	Not Scheduled	A Jul 1983	3,077
	W-64.0 Levee Enlargement Sta. 3300-3538	Not Scheduled	A May 1983	2,606
Channel Improvement, AR, IL, KY, LA, MS, MO & TN	Stone Bank Paving-Revetment Program	Sep 1983	A Aug 1983	6,159
	Stone Bank Paving-Revetment Program	Aug 1983	A J[illegible] 1983	1,881
	Leland Bar, MS-AR-Dike	Jul 1983	S Jul 1984	1,500
	Commerce, MS (TF) Bank Stabilization	Not Scheduled	A Sep 1983	1,600
	Cottonwood Bar, MS (TF) Mile 470R Bank Stabilization	Not Scheduled	A Jul 1983	4,226
	Mat Forms	Not Scheduled	A Apr 1983	1,624
	Porter Lake, AR	Not Scheduled	A Jul 1983	2,130
	Flower Lake, MS - Dike	Not Scheduled	A Jul 1983	1,962
	Arcadia Point, MS - Dike	Not Scheduled	A Jun 1983	1,368
	Refuge, MS Mile 528L - Dike	Not Scheduled	A Jul 1983	1,700

1/ A-Awarded; S-Scheduled.

FISCAL YEAR 1983 NEW CONTRACT AWARDS

Division/Project Name	Description of Work	Scheduled Award Date	Current Award Date 1/	Contract Amount $000
Mississippi River and Tributaries (cont'd)				
Lower Red River-South Bank Levees, LA	Hot-Wells Scott Home Levee Enlargement	Jul 1983	S Oct 1990	1,527
Mississippi River Levees, AR, IL, KY, LA, MS, MO & TN	Canal-Toulouse Floodwall Phase I	Aug 1983	A Sep 1983	1,280
	Grand Lake-Stateline, AR-Item 507R-Levee	Oct 1982	A Jul 1982	1,378
	Stateline-Wilson Point-Item 501R-Levee	Oct 1982	S Oct 1984	11,989
	Stateline-Wilson Point-Item 503R-Levee	Oct 1982	S Dec 1984	7,986
	Waterproof, LA-Berm	Oct 1982	S Nov 1984	3,435
	Pontchartrain Levee District-M 213 to 203L	Oct 1982	A May 1982	1,458
	Canal-Toulouse Floodwall Phase II	Aug 1983	S Mar 1985	1,910
	Convent, LA-Levee	May 1983	A Mar 1983	2,087
	Valewood-Carlisle-Item 498L	Oct 1982	S Apr 1986	3,951
	Caruthersville Berm-Item R-846	Apr 1983	A Aug 1983	1,770
	Nash, MO-Relief Wells Channel	Jun 1983	S Mar 1984	1,450
	Louisana-Jackson Floodwall	Oct 1982	A Nov 1982	6,109
Mud Lake Pumping Station, TN	Pumps-Supply	Jul 1983	S Jul 1986	1,172
Old River, LA	Construct Auxiliary Structure, Levees & Channel	Oct 1982	A Sep 1982	147,295
St. Francis Basin, AR & MO	3 State Bridges, AR Upper Buffalo Creek	Aug 1983	A Aug 1983	1,725
Tensas Basin, AR & LA	Six Mile Bayou, LA	Oct 1982	A Sep 1983	1,015
	Electrical Hookups (CC 83-012)	Not Scheduled	A Nov 1982	2,095
	Bayou Louis Structure & Item 1A	Not Scheduled	A May 1983	1,310
	Tensas-Cocodrie Pumping Plant & Storage Building	Not Scheduled	A Jul 1983	18,451

1/ A-Awarded; S-Scheduled.

FISCAL YEAR 1983 NEW CONTRACT AWARDS

Division/Project Name	Description of Work	Scheduled Award Date	Current Award Date 1/	Contract Amount $000
Mississippi River and Tributaries				
West Tennessee Tributaries, TN				
	Menglewood Item 1-Parcel 3-M19.9 to 25	Apr 1983	A Aug 1982	3,000
Yazoo Basin, MS				
	Pelucia Creek Levees, Item 1	Mar 1983	S May 1984	4,741
	Ascalmore-Tippo Bayou; 3 Tallahatchie County Bridges - Item 5	Not Scheduled	A Sep 1983	1,075
South Atlantic Division				
Tennessee-Tombigbee Waterway, AL & MS				
	Columbus Railroad Relocation	Oct 1982	A May 1983	5,900
	Lock B Railroad Relocation	Oct 1982	A Mar 1983	13,600
	Lock C Utility Relocation for TVA	May 1983	A Nov 1982	1,370
	Demopolis and Gainesville Channel Cleanup	Oct 1982	A Aug 1982	1,500
	Aberdeen Lock and Dam Second Contract	Oct 1982	A Oct 1982	10,620
	Lock A Railroad Relocation	Oct 1982	A Jan 1983	23,000
	Bay Springs Tow Mooring Facilities	Oct 1982	A Dec 1982	1,476
	Divide Cut Erosion Control and Stabilization	Oct 1982	A Oct 1982	1,054
	Gainesville Cochrane Park Recreation	Not Scheduled	A Jul 1983	3,340
	Aliceville Phase III Dredging	Not Scheduled	A Apr 1983	6,000
	Aberdeen Dredging	Not Scheduled	A May 1983	10,525
	Lock A Channel Excavation BA2	Not Scheduled	A May 1983	12,640
	Lock C Channel Excavation C-2	Not Scheduled	A Sep 1983	2,940
Canaveral Harbor, FL				
	Dredging Harbor Extension	Jul 1983	Not Scheduled	12,500
Tampa Harbor, Main Channel, FL				
	Dredging Bay Channel Cuts C, D, and Part E	Feb 1983	A Aug 1982	12,400
AIWW-Replacement of Federal Highway Bridges, NC	Coinjock Bridge Replacement	Jan 1983	A Sep 1983	9,745

1/ A-Awarded; S-Scheduled.

FISCAL YEAR 1983 NEW CONTRACT AWARDS

Division/Project Name	Description of Work	Scheduled Award Date	Current Award Date 1/	Contract Amount $000
South Atlantic Division (cont'd)				
Manteo (Shallowbag) Bay, NC	Jetty Construction at Oregon Inlet	Aug 1983	Not Scheduled	108,000
Cooper River, Charleston Harbor, SC	Power Plant Emergency Bypass	Oct 1982	S Mar 1984	1,481
Little River Inlet, SC & NC	Dredging Inner Channel	Sep 1983	A Nov 1983	770
Central and Southern Florida, FL	Herbert Hoover Dike and Revetment (Part Reach 1)	Oct 1982	A Mar 1983	4,395
	Hendry County Channels & Flood Control Structures	Oct 1982	Not Scheduled	4,125
	Additional Hendry County Channels & Flood Control Structures	Oct 1982	Not Scheduled	7,170
	Herbert Hoover Dikes & Revetments (Part Reaches 1 & 5)	Not Scheduled	A Sep 1983	5,134
	Everglades Levee Modification	Not Scheduled	A Jun 1983	1,010
Dade County, FL	Beach Renourishment North Portion	Jun 1983	A Apr 1984	2,889
Four River Basins, FL	Recreation Facilities Flatwoods Site	Feb 1983	S Dec 1984	1,455
Tombigbee River & Tributaries, MS & AL	Clearing and Snagging Luxapalila Creek	Jul 1983	Not Scheduled	4,340
B. Everett Jordan Dam and Lake, NC	Vista Point, Farrington Forrestry Site Recreation	Not Scheduled	A Sep 1983	1,149
Falls Lake, NC	Sandling Beach Recreation	Not Scheduled	A Jun 1983	3,979

1/ A-Awarded; S-Scheduled.

FISCAL YEAR 1983 NEW CONTRACT AWARDS

Division/Project Name	Description of Work	Scheduled Award Date	Current Award Date 1/	Contract Amount $000
South Atlantic Division (cont'd)				
Portugues and Bucana Rivers, PR	Upper Portugues Channel Section 6C	Nov 1982	A Sep 1983	3,300
	Upper Portugues Channel Section 7	Sep 1983	A Jan 1984	2,490
	Portugues Test Fill and Quarry	Jan 1983	A Jan 1983	2,589
	Lower Bucana Channel Section 1 Cleanup	Not Scheduled	A Jan 1983	1,300
Richard B. Russell Dam and Lake, GA & SC	Abbeville Pump Station Relocation	Oct 1982	A Apr 1983	1,000
	Tree Topping and Flotation Removal in Reservoir Area	Aug 1983	A Apr 1983	4,358
	Pump Storage Turbine Procurement	Oct 1982	S Mar 1984	32,748
	Initial South Carolina Recreation Facilities	Oct 1982	A Sep 1982	3,360
	Oxygenation Dist. System	Not Scheduled	A Jan 1983	2,550
	SCADA Equipment	Not Scheduled	A Mar 1983	1,399
	Initial Georgia Recreation Facility	Not Scheduled	A Jun 1983	3,003
Hartwell Lake, GA and SC - Upper and Lower Diversion Dams (Major Rehabilitation	Upper Dam Rehabilitation	Dec 1982	A Jun 1983	2,179
Walter F. George Lock and Dam, GA & AL (Major Rehabilitation)	Remaining Cutoff Wall	Jan 1983	A Feb 1983	10,140

1/ A-Awarded; S-Scheduled.

TABLE I
U.S. Army Corps of Engineers
Project Statistics
(Dollar Amounts in Thousands)

Type of Project	Number of Projects			Balance to Complete After FY 1985	
	FY 1983	FY 1984	FY 1985	Scheduled 2/	Unscheduled 3/
Regular Construction	152	140	120 1/	$3,554,372	$2,355,796
Reimbursement	2	3	1	0	1,129
Major Rehabilitation	15	14	11	80,172	0
Dam Safety Assurance	2	1	1	0	98,020
Engineering and Design	0	5	5	0	357,201
Total	171	163	138	$3,634,544	$2,812,146

1/ Includes 12 FY 1983 and FY 1984 budgeted new construction starts that are pending FY 1984 Congressional action and two FY 1985 budgeted new construction starts.

2/ Includes an allowance for estimated inflation through the construction period.

3/ Based on 1 October 1983 price levels.

TABLE II

U. S. Army Corps of Engineers

Jobs Bill Report as of December 31, 1983

Appropriation Title	Total Amount Available ($000)	Obligations ($000)	Expenditures ($000)	Jobs Created
Construction, General	85,000	72,404	46,569	3,678
Operation and Maintenance, General	164,000	164,000	131,674	8,537
Flood Control, Mississippi River and Tributaries	140,000	101,635	73,985	6,974
Total	389,000	338,039	252,228	19,189

TABLE III
U. S. Army Corps of Engineers
FY 1980-1985 Civil Works Manpower

Fiscal Year	Civil Works Manpower 1/	Salary Costs ($Millions) 2/
1980	32,539	681.5
1981	31,745	706.5
1982	32,173	734.3
1983	30,564	761.2
1984	28,935	752.0
1985	28,896	780.6

1/ Authorizations through FY 1981 were based on end-strength. Since FY 1981 authorizations have been based on manyear usage.

2/ Actual or budgeted costs; not in constant dollars.

]FISCAL YEAR 1985 NEW CONSTRUCTION STARTS[

Senator ABDNOR. What are the cost-sharing arrangements for the two new starts proposed for FY 1985 and how firm are the local agreements to provide these costs?

Mr. GIANELLI. The financing and cost-sharing arrangements on the two FY 1985 construction starts, as well as the 12 FY 1983 and FY 1984 new starts, are in accord with the policy recently announced by the President. The local share on the Pajaro River, California project is $2.4 million, which is 50 percent of the total project cost. The local share for the project modification at Cowanesque Lake, Pennsylvania is $16,500,000, slightly over 90 percent of the cost of the modification. In addition, the local interests will reimburse the Federal Government for the cost of existing flood control storage reallocated to water supply storage, presently estimated at $52,700,000. We have firm letters of intent from the sponsors of both projects.

Senator ABDNOR. Have the local sponsors of the 12 projects previously recommended as new starts reaffirmed their intentions to share project costs? At what level?

Mr. GIANELLI. Yes, the District Engineers contacted the 12 sponsors about a year ago, and, as I recall, they all expressed their intentions to share in project costs at the levels reflected in the President's budget proposals.

Senator ABDNOR. How will the personnel reduction contemplated for FY 1984 and 1985 be implemented?

General WALL. Personnel reductions contemplated for FY 1984 and 1985 will be implemented by attrition and reductions-in-force.

Senator ABDNOR. How many engineering staff (FTE's) did the Corps have in 1967, and 1977-1985?

General WALL. We have no record of engineering staff strength for FY 1967. The system for accounting manpower in terms of full-time equivalent manyears was implemented in FY 1982. Before then Corps manpower was accounted in terms of number of workers on-board on the last day of the fiscal year, or end-strength. However, we estimate that roughly 6,300 manyears were used in each of fiscal years 1977 and 1978, and 5,800 manyears in each of fiscal years 1979, 1980, and 1981. For fiscal years 1982 through 1984 our engineering staff strengths have been 5,560, 5,300, and 4,975 manyears, respectively. Although the strength for FY 85 is uncertain, it is expected to remain essentially unchanged from that for FY 1984.

Senator ABDNOR. What is the total budget request for personnel for 1985 including salary and other personnel costs?

General WALL. Funds requested for military & civilian personnel related costs in fiscal year 1985 are $898 million. This includes salaries and benefits, Object Classes 11 and 12.

Senator ABDNOR: If you were to divide the operation and maintenance budget between these two components, what would be the levels for each component?

General WALL: Of the $1,297,000,000 for operations and maintenance, operational activities are programmed at $543,000,000 while maintenance activities are programmed at $754,000,000.

Senator ABDNOR: What major repairs or rehabilitations, in excess of $500,000 are budgeted in FY 1985?

General WALL: New starts for major rehabilitation, previously funded under the Construction, General, account, have been included in the operations and maintenance account; for FY 1985 these are: rehabilitation of turbines and generators at John Day Powerhouse, concrete pier stabilization at Duluth-Superior Harbor, concrete repairs and rehabilitation of tainter gates at Marseilles Dam on the Illinois Waterway, breakwater and pier caisson stabilization at Milwaukee Harbor, and repairs to the breakwater at Cleveland Harbor. Additionally, the following table lists other major repair efforts included in this year's budget request:

PROJECT	DESCRIPTION
Abiquiu Dam	Raise dam and deepen spillway
Alabama River	Repair and maintain Claiborne lock
Allegheny River, PA	Replace lock gates, locks 5 and 6 Valve repairs, locks 6, 7, and 8 Repair scour areas below dams 2 and 4
Atlantic Intracoastal Waterway	Repair bulkhead
Big Bend Dam	Scheduled maintenance of powerplant
Black Rock Channel & Tonawanda Harbor	Repair lock gates
Black Warrior & Tombigbee Rivers	Construct river training works

Bonneville	Scheduled maintenance of powerplant Modernize powerhouse
Columbia & Lower Willamette below Vancouver	Add control structures below RM 68
Canton Lake	Repair embankment riprap
Cape Cod Canal	East end bulkhead replacement
Chief Joseph Dam	Scheduled powerplant maintenance
Cleveland Harbor	Repair East breakwater Repair edgewater spur breakwater
Duluth-Superior Harbor	Repair entry piers
Dworshak	Repair powerplant control system
Ediz Hook	Rock revetment protection
Ft. Peck	Scheduled maintenance of powerplant
Ft. Randall	Scheduled maintenance of powerplant Rehabilitate electrical distribution system
Garrison Dam	Scheduled maintenance of powerplant Repair generator
Gavins Point Dam	Scheduled maintenance of powerplant
Grand Marais Harbor	Repair West breakwater
Green & Barren Rivers	Repairs to upper miter gate, lock 2
Gulf Intracoastal Waterway	Maintain lock & salt water control structure Maintain jetty, breakwater, and seawall Repair lock and fender system
Harry S. Truman	Scheduled maintenance of powerplant
Hudson River	Repair Troy lock
Illinois Waterway	Rehabilitate wicket, Peoria & LaGrange

IWW Delaware to Chesapeake Bay	Reedy Point bridge deck overlay & joints seals Summit bridge deck overlay
John Day	Scheduled maintenance of powerplant
John H. Kerr	Repair right wing dike of dam
Kanawha River	Repair upper miter gates, Winfield Install new lower miter gate, Marmet Repair 8 stoney gate valves, London
Kentucky River	Repair miter gates, L&D #1
Keweenaw Waterway	Rehabilitate upper entry revetment
Lake Washington Ship Canal	Maintain locks, gates, valves, machinery, & piers
Little Goose	Install powerplant control system
Lower Granite	Install powerplant control system Scheduled powerplant maintenance
Lower Monumental	Install powerplant control system
Martis Creek Lake	Repair seepage at dam
McNary L&D	Scheduled powerplant maintenance Replace powerplant generator support
Mississippi River between MO Rv & Mpls	Repair miter lock gates, lock 18, 21, 22 Preventive maintenance, lock 17 Maintain dikes & revetments, pools 13, 18, 22
Mississippi River - BR to Gulf	Maintain breakwater, jetty and seawall
Mississippi River between MO River & MPLS	Wing dam modifications Rehab L&D 2 Rehab L&D 10
Mississippi Rv Ohio R & MO	Repair dike & revetment, RM 0-98.6; 98.7-195.0
Missouri Rv, Rulo	Repair dike and revetment Bank stabilization

Oahe Dam	Scheduled maintenance of powerplant Replace stator windings
Ohio River L&D	Repair lock miter gate, Cannelton L&D Repair upper miter gate, Cannelton L&D Clean & paint dam gates & bulkheads, Markland Repair lock valves, Dashield, Pike Island & Hannibal Unwater & repair lock chamber, Pike Island Repair main lock emergency gate, Meldahl Install tainter gate hoist machinery, Meldahl Repair tainter gate side arms, Meldahl
Point Lookout Harbor	Repair East and West breakwater
Quillayute River	Repair rock jetty
Sheboygan Harbor	Repair North revetment
Tennessee River	Repair Pickwick auxiliary lock
The Dalles	Scheduled maintenance of powerhouse
Wolf Creek	Remove turbine skin plates & rehab generator Replace oil circuit breakers

Senator ABDNOR. How will the small authority new starts be selected?

General WALL. We use the following criteria for selection of our new construction starts in small projects. The project must have net economic benefits at the current interest rate. These benefits must be primarily for commercial navigation or flood control. The project must have strong local support with the local sponsor being willing and capable of signing the necessary agreements that provide the items of local cooperation. And lastly, we must have the study scheduled for approval in FY 1984.

Our objective is to approve projects as funds to start construction are available.

Senator ABDNOR. Would you explain the transfer of activities into the O&M account?

General WALL. The activities transferred into the O&M account were all previously budgeted under other accounts, so nothing new has been added. To itemize, we have transferred Special Recreation Use Fees, Major Rehabilitation, Recreation at Completed Projects, and Commercial Statistics to the O&M account. These changes were made at OMB's direction, and are an attempt to group similar items under a single account. The funds collected and appropriated under Special Recreation Use Fees have always been spent on the maintenance and improvement of recreation facilities where the fees are collected. Combining these receipts and expenditures with regular O&M of all recreation sites and the construction of recreation at completed Corps projects brings these related items together under one appropriation. Rehabilitation of projects is a maintenance function. About 20-years or so ago when there was a large backlog of such work, major rehabilitation was moved to the construction account for visibility, but minor rehabilitation continued to be done under O&M. The breakpoint between major and minor rehabilitation was orginally about $1 million and has risen to the current $5 million. Return of this work to O&M is, we believe, appropriate at this time. Commercial Statistics will play a large part in calculations relating to application of user fees, when enacted, to maintenance costs, and it was transferred to O&M for that reason.

Senator ABDNOR. What would be your opinion of combining all or most of the Corps budget accounts into just 1 or 2 accounts?

General WALL. Assuming that no new restrictions are imposed, combining the Corps major accounts would enhance our flexibility. We have already reduced the number of accounts by putting the Special Recreation Use Fee account into the Operation and Maintenance, General account. With this combination, we have eight accounts remaining now. Two accounts, Permanent Appropriations and Revolving Fund, should remain separate for accounting purposes. With further reduction, to say two accounts, a degree of control would be lost in managing certain types of funds. For example, if the General Expenses account, which pays for salaries and expenses of the Office, Chief of Engineers and Division offices would be part of a larger account, it would be more difficult to control such executive direction and management expenditures. Noteworthy also is that, in order to achieve this combination of accounts, costly and extensive revision to the Corps of Engineers Management Information System would be required.

Senator ABDNOR. What activities are programmed for the Revolving Fund?

General WALL. We can provide a tabulation of those activities for the record.

[The information follows:]

FY 85 Revolving Fund Activities

	Thru FY 84	FY 85	Balance to Complete
		(dollars in thousands)	
I. Major Items			
A. Continuing			
1. Moveable Bed Test Facility (WES)	4,250	350	-
2. Derrickboat 75T (St. Louis)	5,448	412	
3. ADPE (recurring costs)	8,100	8,000	-
4. Water Control Data System	9,100	4,000	
TOTAL		12,762	
B. New Starts			
1. Debris Collector (Baltimore District)		700	-
2. Survey Boat (Savannah District)	30	400	570
3. Survey Boat (Norfolk District)		1,000	
4. Survey Boat (Jacksonville District)		1,000	
5. Warehouse (Omaha District)		1,400	
6. Towboat (Nashville District)		1,250	750
7. Renovations, Alaska District Office Building		1,600	3,000
8. Service Barge (Pittsburgh District)	90	400	4,510
9. Sidecaster Dredge (South Atlantic Division)	700	2,600	2,000
10. Jadwin Conversion (Memphis District)	500	5,000	2,000
11. Computer Aided Design and Drafting Equipment (CADD)		3,700	7,900
12. Radio Communications (Corps-wide)		8,260	14,950
13. Dustpan Dredge Replacement (Lower Mississippi Valley)	385	800	34,415
14. Corps of Engineers Automation Plan (CEAP)	5,300	200	88,600
TOTAL		28,310	
II. Minor Items (Programmed)		36,928	
Program Totals		78,000	

Senator ABDNOR. How many potential such starts are there?

General WALL. There would be about 130 potential projects from which new starts would be selected for FY 1985.

Senator ABDNOR. Would you provide the committee with a list?

General WALL. We will provide a list of potential new starts for FY 1985. (List Follows)

NAVIGATION PROGRAM (Section 107)

Dog River, Mobile AL
Mikoryuk Harbor, AK
Seward SBH, AK
Little Rock Port, AR
North Little Rock Port, AR
Two Bayou Port, AR
Union County Port, AR
Yellow Bend Port, AR
Cedar Island - Keaton Beach, FL
Hurricane Pass, FL
Bellville Point, McIntosh Co., GA
Agat SBH, GU
Laupahoihoi Harbor, HI
Bastrop Port, LA
Bayou Grand Caillou, LA
Lower Thorofare, Somerset Co., MD
Pines River, MA
Rockport Harbor, MA
Saquatucket Harbor, MA
Zipple Bay, MN
Southeast Missouri Port, MO
Biloxi River, E. Harrison Co. Canal, MS
Atlantic Beach Channels, NC
Edgewater Marina, Cleveland, OH
Coan River, Northumberland Co., VA
Hull Creek, Northumberland Co., VA
Little Creek, Gloucester Co., VA
Little Machipongo Creek, VA
Ilwaco SBH, WA
Sandy Point, WA

FLOOD CONTROL PROGRAM (Section 205)

Eslava Creek, Mobile, AL
Tributary 2, Bentonville, AR
Los Coches Creek, CA
Papermill Creek, Reyes Station, CA
South Fork, Santa Clara River, CA
Telegraph Canyon Creek, CA
West Magnesia Canyon Channel, CA
Still River, Danbury, CT
Ten Mile River, Cheshire, CT
West River, New Haven, CT
Alligator Creek, Clearwater, FL
Federal Prison Creek, GA
Mill Creek, Dalton, GA
Sope Creek, Marietta, GA
East Cape Girardeau Main Ditch, IL
Lancassange Creek, Clark Co., IN
Cedar Creek, Waverly, IA
Whiskey & Rock Creeks, Independence, KS
Licking River, Salyersville, KY
Point of Pines, Revere, MA
Howell Creek, West Plaines, MO
Logan & Dickson Creeks, Ellington, MO
Lost & Little Lost Creeks, Seneca, MO
Pike Creek, Poplar Bluff, MO
Leaf & Bowie Rivers, Hattiesburg, MS
Lodge Pole Creek, Sidney, NE
Pebble Creek, Scribner, NE
Beaver Creek, Keene, NH
Conklin & Kirkwood, NY
Lake Susupe, NMI
Upper Scioto River, Marion Co., OH
Kingfisher Creek, Kingfisher, OK
WTP, N. Canadian River, Oklahoma City, OK
Clatsop Co. Diking District #5, OR
Pennypack Creek, Hatboro, PA
Poquessing Creek, Bucks Co., PA
West Little Pine Creek, Etna, PA
Blackstone Creek, Cumberland, RI
Crabtree Swamp, SC
Goose Creek, Berkeley Co., SC
Socastee Creek, SC
Dry Creek, Goodlettsville, TN
Humboldt, TN
Calloway Branch, Hurst, TX
Lorean Branch, Hurst, TX
Munday, TX
Kirbyville, TX
Stuart, VA

FLOOD CONTROL PROGRAM (Section 205)-continued

Savan Gut, St. Thomas, VI
Bowman-Hilton River Park, WA
Laurel Fork, Matheny, WV
Spring Creek, Spencer, WV

BEACH EROSION PROGRAM (Section 103)

Town Beaches, Old Saybrook, CT
Paseo De Susana, GU
Sand Island, HI
Ft. Livingston, LA
Belfast City Park, ME
Seaview & Parker River, MA
Rocky Point Beach, MD
City Park Beach, Warwick, RI
Ashland, WI

MITIGATION FOR NAVIGATION PROJECTS (Section 111)

Herring Creek, St. Mary's Co., MD
Grand Traverse Bay, MI
Presque Isle, MI
Saxon Harbor, MI

SNAGGING & CLEARING FOR FLOOD CONTROL (Section 208)

Lick Creek, Hartford City, IN
Salamonie River, Montpelier, IN
Maple River, MI
Wolf Creek, Proctorville, OH

EMERGENCY STREAMBANK & SHORELINE PROTECTION PROGRAM (Section 14)

It is expected that we will construct between 30 to 40 projcts under this program. The projects are not identifiable at this time.

GENERAL INVESTIGATIONS

Senator ABDNOR. How many studies are budgeted in the investigations Account?

General WALL. Sir. The FY 1985 budget request included 135 Feasibility Studies; 39 Continuation of Planning and Engineering Studies; and 17 Advance Engineering and Design Studies, a total of 191 studies.

Senator ABDNOR. How does this compare with previous years?

General WALL. Sir. The comparison is shown in the following tabulation: (the information follows:)

COMPARISON OF NUMBER OF STUDIES IN GENERAL INVESTIGATIONS
FY 83 THRU FY 85

Type of Study	FY 83		FY 84		FY 85
	Request	Cont. Res.	Request	Conference	Request
Feasibility 1/	161	167	130	185	135
CP&E	27	28	27	55	39
AE&D	34	37	27	36	17
TOTAL NUMBER	222	232	184	276	191

1/ Includes Reconnaissance Phase, Feasibility Phase, Legislative Phase I AE&D, and continuation of surveys initiated prior to the two phase planning process.

Senator ABDNOR. How much is budgeted in FY 1985 for research activities?

General WALL: The FY 1985 Research and Development budget is for $34,025,000. The funding by appropriation title is as follows:

General Investigations	$21,000,000
Operation and Maintenance, General	11,325,000
Construction, General	1,500,000
General Expenses	200,000
TOTAL	$34,025,000

Senator ABDNOR. What is the lowest priority item in the Corps budget, i.e., what is the first reduction you would make in this request if it had to be made?

General WALL. Rather than select specific projects or programs for reduction at this time, we would effect first reductions by increasing savings and slippage in the Construction, General; Flood Control, Mississippi River and Tributaries; and Operation and Maintenance, General accounts. This would enable us to apply some of the reductions, after appropriation of funds in the fall, to projects which may have reduced needs due to favorable bids or construction delays, or other problems. The remaining reduction would be to new contract awards for Fiscal Year 1985 and lower priority maintenance work.

Senator ABDNOR. Would you provide the Committee with your recommendations as to where you would reduce this budget, if you had to do so, by $30 million; $50 million; $75 million; and $100 million?

General WALL. Yes, I will supply for the record a tabulation of these reductions.

(The information follows)

REDUCTIONS TO THE FISCAL YEAR 1965 BUDGET
(In Thousands of dollars)

BUDGET ACCOUNTS	BUDGET REQUEST	REDUCTIONS			
		$30M	$50M	$75M	$100M 1/
GENERAL INVESTIGATIONS	118,000	-	-	-	-3,000
CONSTRUCTION, GENERAL	874,000	-12,000	-20,000	-30,000	-40,000
OPERATION & MAINTENANCE, GENERAL	1,297,000	-15,000	-25,000	-38,000	-48,000
FLOOD CONTROL, MR&T	304,000	-3,000	-5,000	-7,000	-9,000
FLOOD CONTROL & COASTAL EMERGENCIES	10,000	-	-	-	-
GENERAL EXPENSES	113,000	-	-	-	-
PERMANENT APPROPRIATIONS	8,000	-	-	-	-
REVOLVING FUND	-	-	-	-	-
TOTAL	2,724,000	-30,000	-50,000	-75,000	-100,000 1/

1/ This is the lowest technically feasible reduction that the Corps could make in the FY 1985 budget request.

Senator ABDNOR. Recreation - there is a great deal of recreational use occurring in the inland waterway system. Between 1977 and 1982 almost a third (1/3) of all lockages were for recreational craft.

- Has the Administration submitted any legislation which would allow the Corps to charge recreational user fees?

Mr. GIANELLI. The Department of the Army has submitted legislation which would increase our authority in the user fee area and specifically allow us to charge user fees for day-use facilities. Authority to charge recreational craft for passage through locks is not a part of that proposal. The only time that we would propose to charge recreational craft for use of a navigation lock would be in those situations where the lock is congested. In such a situation as reflected in our legislative proposal S. 1554, fees would be authorized to be charged to all users in the interest of promoting the most beneficial use of the crowded facility as opposed to recovery of government costs.

Senator ABDNOR. If you could charge recreation user fees for services other than overnight camping, how would you propose those fees be used?

Mr. GIANELLI. The proceeds of all recreation user fees would be deposited in the general treasury.

Senator ABDNOR. Does the Administration have any proposals for the use of the monies which have accumulated in the Inland Waterways Trust Fund? Do you have any projects identified on which you would use these funds?

Mr. GIANELLI. The Inland Waterways Revenue Act of 1978 specified that amounts in the fund could only be appropriated, if the law authorizing the expenditure for which the amount is appropriated explicitly provided that the appropriation is to be made out of the Trust Fund. No projects have been authorized since that date and no specific legislation naming projects for which funds from the Trust Fund could be used has been enacted. Therefore, the Administration cannot use the funds on any projects.

Senator ABDNOR. What types of recreation users would you like to see pay user fees? (lockages, bridge openings, use of boat ramps, and day use facilities).

Mr. GIANELLI. We would like to see user fees paid by recreationists when they use a facility that was provided for their use. This includes such items as picnicking and camping facilities and boat launching ramps. In the case of facilities such as navigation locks, we would not expect to have user fees for recreation costs except to relieve congestion because those facilities are being provided for the commercial navigation interests, and recreation users are only incidental to the basic project purpose. Indeed in certain situations lockage of recreation craft may be viewed as mitigation provided to recreationists who would, absent the project, enjoy the use of a free flowing river unconstrained by locks and dams.

Senator ABDNOR: Please provide specific information on the three existing and four proposed navigation projects to be funded for caretaker status. Also, please provide the economic justification for caretaker status in each case.

General WALL: The three existing projects in caretaker status are the Pearl River in Mississippi (since July, 1974), locks 5 through 14 on the Kentucky River in Kentucky (since October, 1981), and Savannah River below Augusta, Georgia (since October, 1983). The four projects proposed to be placed in caretaker status are the Dismal Swamp Route of the Altantic Intracoastal Waterway (AIWW) through Virginia; the Inland Route, Michigan; the Fox River, Wisconsin; and two locks on the Cross-Florida Barge Canal, Florida. Based on 1982 statistics, only the Dismal Swamp Route had any commercial traffic, and that was only 3,000 tons for that particular portion of the AIWW project. As an alternate route is available on the AIWW through Virginia, we are recommending that this portion of the project be placed in caretaker status. It should be noted that only lock operations on the Cross-Florida Barge Canal will be discontinued; all other project purposes, ie., reservoir operations and recreational activities, will still be accomplished. One-year cost savings versus FY 1985 budget request are:

PROJECT	PORTION OF FY 1985 BUDGET REQUEST FOR LOCK FACILITIES	SAVINGS AS A RESULT OF CEASING LOCK OPERATIONS
Pearl River, MS	$ 190,000	$ 165,000
Kentucky River, KY (Locks 5-14)	104,400	2,000,000
Savannah River below Augusta, GA	239,000	1,031,700
Atlantic Intracoastal Waterway (Dismal Swamp Route), VA	166,300	421,900
Inland Route, MI	35,000	141,000
Fox River, WI	928,000	1,207,000
Cross Florida Barge Canal (lock open), FL	150,000	346,000
TOTAL	$1,812,700	$5,312,600

Senator ABDNOR: Please describe the procedure and criteria which the Corps uses to balance budgetary limitations and needed maintenance on Corps facilities.

General WALL: The Corps issued budgetary guidance for operations and maintenance which established levels of performance into which the field operating agencies could divide their funding requests for maintenance. The first level permitted only essential maintenance activities to assure structural integrity through the budget year. The second incremental level permitted maintenance activities that could provide benefits beyond the budget year if cost savings of 45% could be achieved. The third incremental level was similar to the second, except cost savings were to be at least 25%. These three incremental levels also included maintenance requirements for corresponding levels of operational activities. All levels one and two were included in our final program request. Level 3 requests, however, were then prioritized based on a combination of the project classification and/or activities supported. Hydropower activities received the highest rank, followed by navigation projects with high commercial traffic; flood control; water supply; navigation projects with commercial traffic of less than 25,000 tons; and engineering and recreation/natural resource activities. Within these activity requests, the budgetary line was then drawn.

Senator ABDNOR. Do you expect Corps Expenditures for the Dam Safety Assurance program to increase in the future? Please explain.

Mr. GIANELLI. Yes, I do. The Corps has been studying the engineering adequacy of its older dams for several years and has modified a few of the dams. We are cooperating with the Department of Interior in an effort to develop dam safety evaluation criteria that could be used for decision making regarding the upgrade of Federal dams. I cannot predetermine the results of this effort but it is likely that greater expenditures will be required in the future on the Corps Dam Safety Assurance program.

SENATOR ABDNOR: As Corps of Engineer dredges are retired from service, has the private dredging industry been able to provide comparable dredging service at a similar cost? Please elaborate.

GENERAL WALL: Generally speaking, the private industry has responded quite well to do the work previously done by the Corps dredges. We've been essentially out of the cutterhead dredge business for a fairly long time, so I'll elaborate in the area where the biggest changes have occurred; namely, hopper dredges. The industry, as I mentioned earlier, has built a modern twelve vessel hopper dredge fleet since 1978. During the Industry Capability Program where we documented industry's response in terms of prices and timely response, the industry low bids were virtually the same as our government estimates for those projects. This trend has continued even when we went to government estimates prepared on the basis of industry equipment.

Now there have been isolated cases where industry's bid exceeded the awardable limit of 125 percent of the government estimate and therefore could not be awarded; but conversely, there have been cases where the low bids have been 50 percent of the government estimate. Therefore, it makes more sense to me to evaluate the industry response on a programmatic basis and on that basis we feel we are getting comparable performance and reasonable prices when viewed in terms of the government estimates.

Senator ABDNOR. Please furnish the figures for the total Civil Works budget, the division of the total budget between inland waterways and harbors, and identify by feature cost code the portion of the O&M costs that will be applicable to the $646 million cap proposed in S. 1739.

General WALL. The total Civil Works request for new budget authority is $2.74 billion. Of this amount $633 million is for inland waterways and $36 million is for commercial harbors 14 feet in depth or less. The feature cost code system maintained at the project level for O&M is not used to determine the amount subject to the $646 million cap. Projects subject to the cap, however, are reviewed for actual costs and a specific allocation formula is applied to these costs depending on the authorized purpose. There are four categories as follows:

a. Single Purpose Navigation projects are authorized only for navigation, but may include other costs, such as recreation and law enforcement. These two cost items are subtracted from the total project costs and this remaining total is specified as "Navigation Specific or Allocated" and is "Subject to Cap."

b. Multiple-Purpose Navigation projects have costs that are allocated in accordance with the allocation formula as authorized. No portion of joint-use costs are added to the navigation specific costs that are "Subject to Cap."

c. Other Multiple-Purpose Navigation projects are subject to the cap, but have no specific allocation formula. Therefore, the total project costs are reduced to navigation specific costs, less recreation and law enforcement and other non-navigation specific costs. To the navigation specific costs are added ten percent of joint-use costs for the amount "Subject to Cap." The ten percent factor is an arbitrary value.

d. The Mississippi River and Tributaries project consists of several components, some of which are clearly navigation specific and others are not. However, in accordance with the definition contained in Title V of S. 1739, the factor of 20 percent is applied to each feature of the project. Thus, the total Mississippi River and Tributaries appropriation is multiplied by 0.2 for the amount "Subject to Cap."

Senator ABDNOR. In your view, are these funds sufficient to properly maintain the inland waterway system?

General WALL. Sir, the budget request for Fiscal Year 1985 for inland waterways would be sufficient. However, in Fiscal Year 1986, the first year that the ceiling would be in effect, our estimates indicate that without any new construction projects being undertaken, we will be very close to the $646 million ceiling. A larger uncertainty rests with the major replacement of locks and dams which have yet to be authorized. We have developed estimates based on authorization being considered by the 98TH Congress and on initiation of construction in 1985. These estimates considered all seven of the major projects with an estimated cost in excess of $1.5 billion proceeding simultaneously. The result of this analysis was that commencing in 1988 the funding requirements for new projects would exceed $100 million and could exceed $200 million per year at the end of this decade and the early 1990s. In summary, considering the new construction starts and other ongoing work we would be over the cap by about $44 million in 1987, $184 million in 1988, and it could exceed $200 million in 1989.

Senator STAFFORD. What will be spent by the Corps during Fiscal Year 1985 for ice-flooding research work at Hardwick, Vermont?

General WALL: There is no research project specifically for Hardwick, Vermont in the FY 1985 budget. However, under our R&D work unit on Field Observation of Ice Jams, researchers from the Corps Cold Regions Research and Engineering Laboratory will be studying ice jam conditions at Hardwick and providing technical assistance. The level of funding for this work unit in FY 1985 is $200,000 and addresses all field observation studies of ice jams throughout the country.

Senator STAFFORD. Please provide a list of the projects and sums budgeted for each of the new starts, as well as those with second year funding in the Budget. Please list the total cost, as well as the Federal cost, for each of these projects.

Mr. GIANELLI. I will provide a table for the record which gives that information.

[The information follows:]

29 March 84

ARMY CIVIL WORKS PROGRAM
FY 83/84/85 PROPOSED NEW CONSTRUCTION STARTS
($ IN MILLIONS)

FISCAL YEAR 83/84/85 1/	PROJECT TYPE/NAME 2/	FY 1985 BUDGET REQUEST	TOTAL CAPITAL COSTS 3/	FEDERAL FINANCING		LOCAL FINANCING	
				TRADITIONAL	PROPOSED	TRADITIONAL	PROPOSED
	NAVIGATION						
83	Freeport Harbor, TX (No. Jetty)	2.4	26.0	24.5	13.0	1.5	13.0
	HYDROPOWER						
83	Strube Lake, OR	0	108.0	108.0	2.2	0	105.8
83	Bonneville Fishway, OR & WA	0	21.1	21.1	0.5	0	20.6
	SUBTOTAL	0	129.1	129.1	2.7	0	126.4
	FLOOD CONTROL						
83	Davenport, IA	2.3	46.0	40.2	28.9	5.8	17.1
83	Merced, CA	4.0	111.0	83.4	72.2	27.6	38.8
83	Kahoma Streams, HI	3.4	22.9	16.7	14.9	6.2	8.0
83	Virginia Beach, VA	2.2	5.6	4.6	3.6	1.0	2.0
84	Fairfield Vic. Streams, CA	1.2	35.5	19.6	19.6	15.9	15.9
84	San Luis Rey, CA	5.0	45.0	35.6	29.2	9.4	15.8
84	Bassett Creek, MN	6.0	32.7	27.9	21.3	4.8	11.4
84	Ellicott Creek, NY	2.7	22.6	13.6	13.6	9.0	9.0
85	Pajaro River, CA	1.3	4.8	2.4	2.4	2.4	2.4
	SUBTOTAL	28.1	326.1	244.0	205.7	82.1	120.4
	MULTIPURPOSE						
83	Randleman Lake, NC	3.0	132.0	132.0	57.4	0	74.6
85	Cowanesque Lake, PA	1.3	17.9	17.8	3.7	0	14.2
	SUBTOTAL	4.3	149.9	149.9	61.1	0	88.8
	TOTAL	34.8	631.1	547.5	282.5	83.6	348.6

1/ Projects designated FY 1983 were included in the FY 1983 new starts budget amendment submitted to Congress by the President on May 25, 1982.

2/ Two projects, Bradley Lake, AK and Bodega Bay, CA, which were budgeted as new starts in prior years, do not appear on this list because local sponsors have elected to proceed with construction without Federal participation.

3/ 1 October 1983 prices inflated through the construction period.

Senator STAFFORD. Please provide the Committee with annual figures over the past 20 years for the level of spending in uninflated dollars for each of the Corps' major categories (Construction, General; Operation and Maintenance, General; etc.).

Mr. GIANELLI. Yes, sir. The Corps has constant dollar information on appropriations since fiscal year 1967. (The information follows:)

TABLE I

CORPS OF ENGINEERS APPROPRIATIONS
FY 1967 THROUGH FY 1985
(Dollars in Millions)

ALL APPROPRIATIONS

Fiscal Year	Actual Appropriation	Value in July 1965 Dollars
1967	1,293	1,293
1968	1,305	1,249
1969	1,246	1,124
1970	1,157	955
1971	1,310	1,002
1972	1,589	1,097
1973	1,952	1,190
1974	1,770	1,031
1975	1,757	927
1976	2,184 1/	1,074
1977	2,487	1,091
1978	2,784	1,148
1979	2,790	1,096
1980	3,263	1,185
1981	3,100	1,044
1982	3,002	946
1983	3,421	977
1984	2,649 (Estimate)	730
1985	2,724 (Budget)	707

1/ Without TQ (transition quarter)

TABLE II

CORPS OF ENGINEERS APPROPRIATIONS
FY 1967 THROUGH FY 1965
(Dollars in Thousands)

GENERAL INVESTIGATIONS

Fiscal Year	Actual Appropriation	Value in July 1965 Dollars
1967	32,450	32,450
1968	34,445	31,332
1969	30,015	25,147
1970	41,191	31,183
1971	39,023	27,895
1972	50,714	33,116
1973	57,805	34,707
1974	56,142	32,180
1975	65,284	34,926
1976	66,836 1/	34,490
1977	71,920	32,227
1978	107,046	46,906
1979	137,978	56,296
1980	142,145	53,391
1981	134,013	46,659
1982	137,225	44,422
1983	139,042	40,811
1984	135,810 (Estimate) 2/	38,134
1985	118,000 (Budget)	32,209

1/ Without TQ (transition quarter)
TQ = 17,110 = 8,829 (1965 Dollars)

2/ Reflects proposed transfer of $+2 million

TABLE III

CORPS OF ENGINEERS APPROPRIATIONS
FY 1967 THROUGH FY 1985
(Dollars in Thousands)

CONSTRUCTION, GENERAL*

Fiscal Year	Actual Appropriation	Value in July 1965 Dollars
1967	965,955	965,955
1968	967,599	921,523
1969	862,714	778,454
1970	711,992	587,058
1971	851,178	650,494
1972	1,025,084	703,844
1973	1,203,943	727,002
1974	873,589	503,399
1975	966,338	502,248
1976	1,237,151 1/	600,460
1977	1,430,195	618,436
1978	1,537,820	620,945
1979	1,343,711	507,796
1980	1,659,752	584,529
1981	1,593,892	516,469
1982	1,429,992	432,586
1983	1,508,405 2/	413,028
1984	889,304 (Estimate) 3/	237,484
1985	874,000 (Budget)	218,006

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* Excludes FC MR&T

1/ Without TQ
TQ = 412,741 = 200,327 (1965 Dollars)

2/ Includes $180 million deferred in FY 1983 for use in FY 1984, and $85 million Jobs Act Funds appropriated in FY 1983.

3/ Reflects proposed transfer of $-4.8 million.

TABLE IV

CORPS OF ENGINEERS APPROPRIATIONS
FY 1967 THROUGH FY 1985
(Dollars in Thousands)

OPERATIONS AND MAINTENANCE, GENERAL

Fiscal Year	Actual Appropriation	Value in July 1965 Dollars
1967	178,900	178,900
1968	193,00	190,532
1969	227,300	208,611
1970	261,824.9	222,986
1971	301,830.5	235,031
1972	388,519	274,604
1973	407,100	258,420
1974	426,625	258,822
1975	494,577	267,804
1976	582,073 1/	291,050
1977	667,600	300,217
1978	768,870	328,051
1979	833,100	343,600
1980	941,580	356,690
1981	967,905	342,250
1982	1,025,335	335,102
1983	1,201,367 2/	352,129
1984	1,184,492 (Estimate)	331,456
1985	1,297,000 (Budget) 3/	344,350

1/ Without TQ
TQ = 153,116 = 76,562 (1965 Dollars)

2/ Includes $164 million appropriated under Jobs Act

3/ Starting with FY 1985 this appropriation will include Special Recreation Use Fees, major rehabilitation initiated in FY 1985, and subsequently, recreation at completed projects.

TABLE V

CORPS OF ENGINEERS APPROPRIATIONS
FY 1967 THROUGH FY 1985
(Dollars in Thousands)

GENERAL EXPENSES

Fiscal Year	Actual Appropriation	Value in July 1965 Dollars
1967	18,014	18,014
1968	19,515	18,586
1969	21,875	18,237
1970	25,356.6	19,483
1971	27,586.4	19,656
1972	29,723	19,982
1973	32,183	20,181
1974	35,083	21,903
1975	40,100	23,912
1976	43,700 1/	23,435
1977	49,050	24,501
1978	60,000	28,494
1979	68,900	30,838
1980	76,800	31,896
1981	86,630	32,706
1982	96,000	34,369
1983	100,100	31,775
1984	105,800 (Estimate) 2/	32,032
1985	113,000 (Budget)	32,221

1/ Without TQ
TQ = 11,050 = 5,926 (1965 Dollars)

2/ Reflects proposed transfer of $+2.8 million

TABLE VI

CORPS OF ENGINEERS APPROPRIATIONS
FY 1967 THROUGH FY 1985
(Dollars in Thousands)

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES

Fiscal Year	Actual Appropriation	Value in July 1965 Dollars
1967	87,135	87,135
1968	87,135	84,034
1969	69,600	63,973
1970	80,820	65,615
1971	83,987	63,731
1972	86,000	59,310
1973	111,620	66,051
1974	264,600	149,147
1975	120,051	61,060
1976	205,147 1/	100,614
1977	231,497	99,741
1978	253,081	101,340
1979	223,035	86,056
1980	210,515	77,129
1981	237,519	80,544
1982	256,310	81,341
1983	403,052 2/	116,171
1984	300,480 (Estimate)	82,069
1985	304,000 (Budget)	79,240

1/ Without TQ. TQ = 60,300 = 29,574 (1965 dollars)

2/ Includes $140 million appropriated under Jobs Act.

Senator STAFFORD. The other day, this Committee heard testimony from J. Peter Grace outlining the Grace Commission's recommendation for $1.3 billion in navigational cost-recovery over a three-year period. What is your view on that proposal?

Mr. GIANELLI. The navigation cost recovery proposals in the Grace Commission report are very similar in concept to the early proposals contained in legislation submitted by the Administration. Subsequent Administration positions have provided for a phasing-in of cost recovery, recognizing that it is unrealistic to expect changes which would have dramatic impacts on the industry, particularly the inland waterway industry, in a short period of time.

Senator STAFFORD. Would you please explain the degree of cost-sharing that exists in the new starts recommended in this budget, as well as those that are in the budget for second year financing? How do those cost-sharing arrangements compare with the levels proposed in S. 1739?

Mr. GIANELLI. There are two FY 1985 new construction starts proposed in the FY 1985 budget. The Pajaro River Project has a 50-50 cost sharing arrangement and the Cowanesque Project 90 percent is to be financed by the non-Federal sponsor. In the case of the projects proposed for second-year funding, in aggregate the 12 projects would be 75 percent financed by non-Federal sponsors. The cost sharing arrangements which we have developed over the past couple of years and which are reflected in the FY 1985 budget are generally larger in terms of the share to be paid by non-Federal sponsors than is proposed in S. 1739.

Senator STAFFORD. How much money do you anticipate will be spent on Tennessee-Tombigbee Waterway construction in 1985?

General WALL: We estimate that $65,000,000 will be expended on the Tennessee-Tombigbee Waterway during Fiscal Year 1985. This includes construction and hired labor and other activities required to support the construction effort.

Senator STAFFORD. How much is sought for survey work for navigation south of Demopolis Alabama on the Black Warrior River? What work will that accomplish in FY 1985?

General WALL: Sir, no funds are being requested for preauthorization survey studies of navigation south of Demopolis. Studies of navigation improvements, south of Demopolis, such as additional locks at Demopolis and Coffeeville and a 300-foot waterway were stopped during FY 1982 in accordance with Section 508 of the FY 1982 Energy and Water Development Appropriation Act.

Senator STAFFORD. In previous testimony before this Committee, the Corps has explained that it spent, in fiscal 1983, $658,000,000 on inland waterway operations, maintenance, and construction. Would you please provide to the Committee a detailed breakdown, for example, on how you allocated O&M costs on the Columbia River between navigation, hydropower, and other purposes?

General WALL. The Columbia/Snake River system consists of nine projects, but none of them had any construction expenditures in Fiscal Year 1983. However, the Operation and Maintenance, General expenditures for the nine projects during Fiscal Year 1983 follows:

Operation and Maintenance
Fiscal Year 1983 Expenditures
($ Millions)

	Power	Navigation	Flood Control	Recreation	Total
Columbia River					
Bonneville L/D	5.3	2.5	-	0.5	8.3
Chief Joseph	5.2	-	-	-	5.2
John Day L/D	8.7	1.1	0.3	0.4	10.5
McNary L/D	8.4	1.6	-	1.0	11.0
The Dalles Dam	5.3	0.3	-	0.1	5.7
Total	32.9	5.5	0.3	2.0	40.7
Snake River					
Ice Harbor L/D	3.4	1.1	-	0.4	4.9
Little Goose L/D	3.3	1.4	-	0.2	4.9
Lower Granite L/D	4.0	1.3	-	0.4	5.7
Lower Monumental L/D	2.9	0.7	-	0.1	3.7
Total	13.6	4.5	-	1.1	19.2
Grand Total	46.5	10.0	0.3	3.1	59.9

1591C

Questions Submitted by Senator Daniel K. Inouye

]BARBERS POINT HARBOR, HAWAII[

Question. The FY 1985 funding request for Barbers Point Harbor is to complete the project. When is the completion scheduled and is the project still being litigated?

Answer. The project is currently scheduled for completion in May 1985. On 5 January 1984, the Federal District Court rendered a decision and ruled in favor of the Government. The plaintiffs have filed a protective notice of appeal with the Ninth Circuit Court of Appeals.

Question. What is the stated basis for the differing site condition claims on Barbers Point Harbor?

Answer. At this time, no claim based on differing site conditions has been submitted by the contractor on the Barbers Point Harbor project. Accordingly, it would be pure conjecture to speculate as to the basis of any such claim. Nonetheless, in most instances, differing site claims involve claims by contractors for expenses that are not envisioned in original bid documents based on unexpected conditions encountered in connection with excavation and foundation work for actual construction projects.

Question. When do you expect this Barbers Point Harbor claim will be filed against the Government?

Answer. Since no official claim has been made by the contractor, it is possible he may not file such a claim until the construction work is nearing completion in the spring of 1985.

]HURRICANE IWA[

Question. Hurricane IWA damaged some of the Corps' projects. Have you completed the necessary repairs?

Answer. Repair work required on Corps projects as the result of Hurricane IWA damages has been completed on three of the four affected projects. Kekaha Beach revetment project on Kauai, Sand Island Beach Park on Oahu, and Port Allen Harbor breakwater on Kauai. Repair of the fourth at Nawiliwili Harbor on Kauai was relatively minor and is being incorporated in a larger maintenance project.

]NAWILIWILI HARBOR, HAWAII[

Question. When do you propose that maintenance work on Nawiliwili Harbor be initiated?

Answer. The General Design Memorandum was completed in January 1984 and initiation of the repair work is currently being considered for accomplishment in FY 1986.

]NORTHERN MARIANA ISLANDS STUDY[

Question. What is the status of the Commonwealth of the Northern Mariana Islands Comprehensive Study?

Answer. This study was recently authorized in December 1983 by Public Law 98-213 and initiation of the reconnaissance phase of the study is scheduled this year. The cost of the reconnaissance phase is about $320,000. Improvement to navigation facilities to handle present and projected waterborne commerce is of high priority and, together with flood control and water supply, are to be emphasized in conducting the reconnaissance phase of the study. To the extent appropriate, other areas mentioned in the study authorization as hydroelectric power generation, wise use of flood plain lands, waste water management, water quality and other water related purposes would also be addressed.

FISCAL YEAR 1985 BUDGET REVIEW

FRIDAY, MARCH 2, 1984

U.S. Senate,
Committee on Environment and Public Works,
Washington, D.C.

The committee met, pursuant to notice, at 10:30 a.m., in room SD-406, Dirksen Senate Office Building, Senator Robert T. Stafford (chairman of the committee) presiding.

Present: Senators Stafford, Abdnor, Randolph, Burdick, and Lautenberg.

Environmental Protection Agency

OPENING STATEMENT OF HON. ROBERT T. STAFFORD, U.S. SENATOR FROM THE STATE OF VERMONT

Senator **Stafford**. The Committee on Environment and Public Works will please come to order.

I am happy to welcome all of our guests and the principal witness for the Environmental Protection Agency this morning.

I expect that Senator Randolph will be here momentarily, and in view of the fact that I do and he probably will have opening statements, I shall proceed at this point.

This is a hearing of the full Environment and Public Works Committee to receive testimony regarding the administration's proposal for its fiscal year 1985 budget for the Environmental Protection Agency. The purpose of this hearing is to review the status of the Agency's programs and examine the adequacy of resources available to the Agency under the budget proposals. Consequently, we will examine both the broad sweep and the minutiae of the budget proposals.

The administration budget recommendation that we received early last month proposed increases in funding for both fiscal year 1984 and fiscal year 1985. That request is 9 percent above fiscal year 1984 appropriated levels for the operating budget and 56 percent appropriated levels for the Superfund program and would exhaust the resources presently available to that fund next year.

Personally, I am encouraged by the fact that the administration has requested increases in funding for EPA. This year's request seems to indicate that the policies of the last several years have been reversed. Instead of cutting the Agency budget, which was the effect of the proposal for fiscal years 1981, 1982, 1983, and 1984, it has at last been proposed that the budget be increased. This is the case in not just a few programs, but many of them.

Though encouraged, I am not content. It will require more than a modest increase for 1 year to restore the Environmental Protection Agency. That is a task which will require more time and more money. Nevertheless, this is certainly a good step in the right direction.

One question which we all must ask, not only of Mr. Ruckelshaus, but of ourselves as well, and that is whether this increase is adequate. Last year I asked that question of myself and concluded that the administration's budget request was too low. For that reason, I sought to increase the Agency budget to $1.35 billion. I regret to say that too few of my colleagues agreed with my conclusions. Many of my colleagues explained to me that they could not support the $1.35 billion proposal because they had faith in Bill Ruckelshaus and wanted to give him time to work out his own budget conclusions.

It is now a matter of history that Bill Ruckelshaus was given that time and, in fact, he reached his own conclusions on what the proper level of funding for the Environmental Protection Agency ought to be.

But that is not the budget we are reviewing here today. What is now before the committee is not the budget which Bill Ruckelshaus wanted, but the budget which OMB approved. What Mr. Ruckelshaus asked of the OMB was much more than the figure now in front of the committee. It is also a level which this Senator will seek to achieve.

My goal today is the same as it has been since I joined this committee many years ago. That goal is to assure that EPA has the money it needs, the people it needs, and the laws it needs to protect the health and welfare of this country from pollution and poisons.

I did not agree with the administration's budget request for last year, nor am I sure this year that even the amount requested by Mr. Ruckelshaus of OMB is the full amount of money the Agency requires. But I intend to do this year what my colleagues urged last year, that is, trust in the budget requested by Mr. Ruckelshaus.

I recognized that the Administrator is a member of this administration. He is an extraordinarily capable and loyal servant of the President. I fully expect that he will defend the budget approved by OMB. Indeed, very few could expect him to do less than defend the OMB budget, but I hope that the funding level approved by this committee and the Congress will not be the budget he defends, but the one he wanted.

Senator Randolph, do you have an opening statement?

OPENING STATEMENT OF HON. JENNINGS RANDOLPH, U.S. SENATOR FROM THE STATE OF WEST VIRGINIA

Senator RANDOLPH. Yes, I do.

I join our able Chairman and my colleagues of the committee in welcoming Mr. Ruckelshaus and his assistant administrators for this hearing.

I view the budget proposal for the coming fiscal year and the performance of the Agency with more confidence, Mr. Ruckelshaus, and optimism than I have had in recent years. You, Mr. Ruckelshaus, I believe, have adopted a well-reasoned, and I use the word advisedly, and forthright approach toward this committee since returning to the Agency last May. This approach will work to your benefit and to the Agency's benefit and hopefully to the betterment of America. We discuss the fiscal year 1985 budget not in attempt to justify the expenditures. Those are set forth very carefully by you.

I am gratified to see changes in the policies that have troubled me in the past 3 years of the consideration of EPA's budget. The trend toward eliminating grant support for State environmental programs has been reversed. The proposed budget for State grants in 1985 provides stability to our State environmental program. It may not be totally adequate, but it demonstrates continued commitment to support those federally mandated requirements, and I think those requirements should be observed.

The solid waste and Superfund programs have gained significant momentum during the past year. It is important, it is crucial that we have an end—we have talked about it over and over—of open dumping in this country. We have said it was going to stop, Mr. Chairman, in 5 years. How long has it been since we have talked about that? A long time. It was going to stop in 5 years. I hope that you, Mr. Ruckelshaus, can aid us in assessing Agency needs to carry forward this program. The chairman, all of us, have been writing to you and to others. We certainly did it last August, asking for an assessment of the resources needed to carry out a reasonable subtitle D program with the improvements made by our Solid Waste Act reauthorization bill. We received a response—do you know we received a response only late yesterday. I couldn't handle the mail in my office like that. My constituents wouldn't stand for it. We have only begun, naturally, to evaluate it, but I remain convinced that this is a program for which we must seek additional funding. That is not popular right now, but certainly it is going to be necessary.

When you, Mr. Ruckelshaus, were named Environmental Protection Agency head, I recall that President Reagan agreed to supply you with the resources needed, as he indicated, to administer the Agency with its commitment as the Congress had stated by law. Our function as we have the oversight within the commitment of the administration's budget request as submitted to Congress is not the same budget request that was formulated by the Agency. Close attention needs to be given to the differences between the two.

The testimony presented and the responses to the questions certainly will be helpful as we continue today as a guide to us for a reasonable assessment of the needs of EPA. That is especially now pivoted on and aimed at the needs for fiscal year 1985.

Thank you very much.

Senator STAFFORD. Thank you very much, Senator Randolph.

Senator Burdick.

Senator BURDICK. I will yield my time to Mr. Ruckelshaus. Thank you.

Senator STAFFORD. In that event, Senator Lautenberg, do you have an opening statement?

OPENING STATEMENT OF HON. FRANK R. LAUTENBERG, U.S. SENATOR FROM THE STATE OF NEW JERSEY

Senator LAUTENBERG. Yes, thank you, Mr. Chairman.

I congratulate you on an eloquent statement of purpose, the need to provide adequate resources that you included in your opening statement. I share your views totally.

I join in welcoming Administrator Ruckelshaus here today. We have not had a chance to meet personally, but I understand that we will be talking in the future, and I look forward to working together cooperatively.

There are few issues more important to the people of my State, New Jersey, than the protection of the environment and the reversal of so much harm that has already been done. Today, we have an opportunity to review the proposed budget for EPA and to review the performance of its duties. There are a number of concerns that I hope I will have a chance to explore today.

Each day, as you know, some 220 million gallons of raw sewage are dumped into the waters off my State by our neighbor to the east; 220 million gallons a day of untreated sewage. While my State and others have moved, not without great pain, to get treatment facilities on line, a wave of waste flows every day from the east. The people in my State want to know why and they want it stopped.

For 60 years, sludge has been deposited at a site 12 miles off the shore of New Jersey, posing a serious threat to ocean resources, to vital fisheries, and to our precious coastal region. Congress acted in 1977 to end this kind of ocean dumping, and it stopped everywhere; everywhere but at that 12-mile site. Mr. Chairman, the people of my State want to know why and they want it stopped.

The passage of the Superfund law was greeted with relief by a public that wants hazardous waste cleaned up. But since the passage of that law, we have discovered many more dumps than we have cleaned up. The EPA's own staff says we need not $1.6 billion but 5 to 10 times that amount. The process is just moving too slowly, too timidly to meet the threat to our health and safety. The people of New Jersey and the Nation want to know why, and they want it cleaned up.

Lastly, I would hope to have a chance to discuss the effort to remove asbestos in the schools. There are countless people in my State who have worked with asbestos. The town I grew up in, Paterson, N.J., had an asbestos factory, and people who worked there 20 years earlier came down with a disease that ultimately killed them. The outrage is that despite all we know, we are subjecting our children to this very same threat because our schoools used asbestos as a building material and it is getting into our kids' lungs. The people want to know why and they want it cleaned up.

I know very well that the Administrator has weighty responsibilities. He needs the resources and he needs the resolve to get the job done. He himself, we believe, has the resolve, but I know that he does not have the resources. I am pleased to meet with you here today to have a chance to talk to you, and I am looking forward to exploring these issues.

Thank you very much, Mr. Chairman.

Senator **Stafford**. Thank you very much, Senator Lautenberg.

The Chair will reserve the right for other Senators to place statements in the record at this point if they wish to.

[Opening statements submitted for the record follow:]

OPENING STATEMENT OF HON. JAMES ABDNOR, U.S. SENATOR FROM THE STATE OF SOUTH DAKOTA

MR. ADMINISTRATOR, THE STATE OF SOUTH DAKOTA FILED WRITTEN CLAIM LAST DECEMBER PURSUANT TO SECTIONS 111 AND 112 OF CERCLA FOR DAMAGES AGAINST THE SUPERFUND FOR DESTRUCTION OF ITS NATURAL RESOURCES.

I UNDERSTAND THAT ALTHOUGH THE DEPARTMENT OF INTERIOR WAS TO HAVE PROMULGATED REGULATIONS TO IMPLEMENT THESE SECTIONS OF THE STATUTE, THE DEPARTMENT HAS FAILED TO DO SO.

IN SPITE OF THE FACT NO REGULATIONS HAVE BEEN DEVELOPED, SOUTH DAKOTA'S CLAIMS, WHICH WERE SUBMITTED TO YOUR AGENCY PRIOR TO THE STATUTORY DEADLINE, WERE REJECTED OUTRIGHT.

THIS MATTER IS OF GREAT CONCERN TO ME AND TO MY STATE AND, FROM WHAT I HEAR, A NUMBER OF OTHER STATES ARE IN SIMILAR CIRCUMSTANCES. COULD YOU PROVIDE US WITH A WRITTEN ACCOUNT OF THE NUMBER OF STATES AND LOCALITIES WHICH FILED CLAIMS UNDER SECTIONS 111 AND 112 PRIOR TO THE DEADLINE; AND HOW MANY STATES HAVE SUSTAINED NATURAL RESOURCE DAMAGE AND TO WHAT EXTENT THEY MIGHT EXPECT TO BE COMPENSATED THROUGH THE FUND?

OPENING STATEMENT OF

SENATOR DANIEL PATRICK MOYNIHAN

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

March 2, 1984

EPA BUDGET HEARING

Mr. Administrator,

It is a pleasure to have you appear today before this Committee to discuss the Administration's request for an increase in the Environmental Protection Agency's budget for fiscal year 1985. An increase of only 6%, but nonetheless a welcome change.

I need not remind you that the EPA is responsible for administering, in whole or part, more than half of our Nation's major environmental laws. These laws include the Clean Air Act, the Clean Water Act, the Resource Conservation and Recovery Act, the Toxic Substances Control Act, the Federal Insecticide, Fungicide, and Rodenticide Act, the Safe Drinking Water Act, and the Comprehensive Environmental Response, Compensation and Liability Act (Superfund).

Your predecessor, it seemed, was not aware that carrying out these laws would be a complex and difficult task. A task that would require more, not less, resources. In fiscal year 1981, the Environmental Protection Agency had an operating budget of $1.353 billion. By Fiscal year 1983, the Agency's operating budget had declined to $1.039 million, a cut of 23 percent.

On October 15, 1981, then-EPA Administrator Anne M. Gorsuch testified before this Committee about the impact of the budget cuts. She said:

> Applied correctly, I firmly beleive that the Administration budget decisions will enhance our basic mission, and in fact, will enable us to concentrate on the most important aspects of environmental protection and to move away from regulation for the sake of regulation -- to put aside confrontation for the sake of confrontation.

In some ways Mrs. Gorsuch was correct, EPA did move away from regulation. As for confrontation, it was hardly put aside.

In 1982, the Conservation Foundation, the oldest non-profit research organization concerned with large issues of the environment, published its own study, entitled State of the Environment 1982. Events compelled the Foundation to undertake a comprehensive assessment of the Nation's environment. The forward to the report is straightforward:

> One of the worrisome new directions of federal policy is a significant reduction in environmental research and a discontinuance of many public information services.

Many of shared the concerns of the Conservation Foundation.

It has been said that, if it is your purpose to not address problems through government, you first will put an end to attempts to measure them. It was this worry that led me on May 20, 1982 to offer with Senator Leahy an amendment to the First Concurrent Budget Resolution for FY 1983, adding $300 million to the EPA budget. The Administration opposed our amendment, and it lost by a vote of 38 to 60.

For fiscal year 1984, the Administration again proposed to cut the EPA operating budget, requesting only $949 million as compared to the $1.048 appropriated in FY 1983. In addition, the Administration proposed to spend only $310 million of the $767 million available in the Superfund Trust Fund for FY 1983.

In May 1983, during Senate consideration of the FY 1984 Budget Resolution, I introduced an amendment, this time with Senators Stafford and Leahy and 16 of our colleagues, to restore the EPA operating budget to its fiscal year 1981 level of $1.353 billion and to provide $383 million for the Superfund program. Without a vote, we succeeded in incorporating the provisions of our amendment in the compromise Budget Resolution adopted by the Senate.

Obviously, our efforts to restore the EPA operating budget to its fiscal year 1981 level and to provide additional monies for the Superfund program did not escape your attention, Mr. Administrator. On May 4, 1983, you appeared before this Committee for your confirmation hearing. You told us, "It will be a high priority of mine to review the existing budgetary ceilings to see if additional money or people are needed to carry out the mandate of Congress."

We were not surprised, therefore, when on June 13, 1983, you wrote to OMB Director David Stockman asking that the Administration's request for the EPA's fiscal year 1984 operating budget be increased by $165.5 million, and that the fiscal year 1984 Superfund request be increased by $100 million.

Our message finally seemed to get through -- cuts in the EPA budget had to stop. As it turned out, your June 1983 request was granted, $1.114 was appropriated for the EPA operating budget in fiscal year 1984 and $410 million for Superfund in fiscal year 1984. Not as much as some of us would have liked, but an increase over 1983 levels.

Now, the Administration has presented its fiscal year 1985 budget request, $1.209 for EPA's operating budget and $640 million for Superfund.

While this is an overall 6 percent increase over 1984 levels, it still falls short. The EPA operating budget has not been returned to its 1981 level, not even in nominal dollars.

It is my understanding that your fiscal year 1985 budget submission to the Office of Management and Budget (OMB) for EPA's operating budget was $1.353 billion. OMB cut your request, so that the President's fiscal year 1985 budget included only $1.209 billion for the EPA operating budget.

I will say simply that EPA needs and deserves nothing less than $1.353 billion for its operating budget in fiscal year 1985. I will support nothing less, and I will work to see that Congress appropriates nothing less.

Opening Statement
EPA Budget Hearing
March , 1984
Senator Baucus

Mr. Ruckelshaus, as you know the budget proposals presented to Congress in the past three years were difficult to take seriously. A deceptive game was being played with public health and the environment as stakes. Through blue smoke and mirrors Congress and the public were supposed to be dupped into believing that "achieving more with less" and "managing for better results" meant that all was well with EPA.

We know that wasn't the case, and a three year legacy of inaction continues to plague the Agency as evidenced in the recent case of EDB.

EPA seems to be getting back on tract. However, I have concerns about the budget proposal for FY85. Not the least of those concerns is the tinkering OMB has done.

There is a $144 million dollar difference of opinion between you and OMB on the subject of what is needed to run EPA. I suspect the difference may actually be much larger on both sides.

In Congress, we have many hard decisions and choices to make. The public, however, has repeatedly made it known that it does not support any false economies achieved at the expense of protecting health and the environment. Therefore, EPA should prevail over OMB in planning for adequate resources. It is up to Congress to support the Agency in the process.

I am pleased to see a change in this Administration's attitude toward the research and development program as reflected in the budget proposal. I have some specific concerns about the program that I will pursue with questions.

Senator STAFFORD. Having said that, we will go directly to you, Mr. Administrator, and to whatever statement you wish to make to the committee. We are very glad you are here.

STATEMENT OF HON. WILLIAM D. RUCKELSHAUS, ADMINISTRATOR, U.S. ENVIRONMENTAL PROTECTION AGENCY

Mr. RUCKELSHAUS. Thank you very much, Mr. Chairman and members of the committee. I do appreciate your accommodating your time schedule here to the announcement we made this morning on the ethylene dibromide citrus situation. I think, on the basis of that, we will be seeing ethylene dibromide out of the American diet in as orderly and as quick a fashion as possible, and I do appreciate the additional time that you provided us.

I also appreciate the opportunity to review the status of our programs at EPA and the President's fiscal year 1985 budget proposals. With me today, on my right, are the Deputy Administrator, Mr. Al Alm, and the Assistant Administrators who are sitting behind me who manage our programs. It has been traditional at this hearing, Mr. Chairman, to have all of these people present so that if there are some questions that have to do with details with which they are familiar, we can call on them.

We think our budget will provide the Agency with the resources that are needed to take effective actions to protect the environment and public health. Our 1985 budget request reflects the long-range priorities that the President gave me when I returned as Administrator last May. These resources will insure that the President's environmental objectives, as dictated by the many statutes the Congress has passed, are fairly met.

During my confirmation hearings before you and this committee, I noted and we agreed that both human and financial resources to do this job were the essential ingredients of success. I stated at that time that my first priority would be to recruit the best people I could find to manage the Agency. The results of this highly successful, and I say that absolutely truthfully in terms of my own belief, recruitment effort at the Agency policy level are with me here today. They are joined by nearly 900 new colleagues at every level that we have hired over the last 4 months.

Equally, if not more important, was my commitment to reinvigorate the energy, spirit, commitment, and self-respect of the very talented staff at EPA. As to whether or not this has been accomplished, I think only history will judge, but we are hard at it.

Essential to our efforts to maintain the Agency's credibility both in the eyes of the public as well as our own was a reevaluation of the Agency's resource needs.

The 1985 budget proposal you have before you is the result of the second set of budget-related decisions and initiatives that I have taken. Following my confirmation, and with the strong support of Congress and the administration, we were able to significantly increase the Agency's budget for the fiscal year that started last October. Our 1985 budget continues that period of expansion for EPA.

Our proposed 1985 budget represents a major investment in the future. The President is requesting $4.25 billion supported by 12,298 workyears. The request included $1.2 billion and 10,941 workyears for our operating programs, $640 million and 1,357 workyears for the Superfund program, and $2.4 million for municipal sewage treatment construction. These additions, when combined with the levels requested last summer and enacted by the Congress, amount to dollar increases of 106 percent in the Superfund program and 27 percent in our operating programs over the levels proposed before my return to EPA. These are substantial increases which are essential, I believe, for us to address our critical environmental needs.

I am sure that my priorities are no surprise to the members of this committee, since I have discussed them with you several times over the last 9 months. What I would like to do now is describe our 1985 budget proposal for EPA in the context of those priorities.

The control of hazardous waste continues to be a key environmental issue of great concern to Americans. It is a technically complex and highly emotional issue. Unless we address the most critical needs in a rational manner now, our course will be set by the crisis of the moment. We must manage the solution to these challenges thoughtfully.

Several recent policy changes have greatly expanded our ability to expedite actions at Superfund sites. Specifically, we have clarified the criteria under which emergency response can be undertaken, resulting in a significant increase in the number of sites at which the Agency can provide immediate response; we have eliminated State cost share requirements for remedial planning; and we have required that a site analysis be conducted prior to negotiating with responsible parties, thus simplifying the negotiation process.

These policies have already resulted in EPA being able to double the number of remedial investigations initiated beyond those originally planned in 1983 with more than a 50-percent increase in the number of removals. Our 1985 budget reflects our intent to request reauthorization of the Superfund program. The activities we plan are based on the assumption that additional funding will be available in the outyears.

The 1985 Superfund budget includes a 56-percent increase in dollars and a 35-percent increase in workyears from our current 1984 levels. The majority of this funding will be used to support a threefold increase from 1984 appropriated levels in the number of sites where remedial construction will begin for the final phase of cleanup. Other Superfund program increases requested in 1985 will support EPA's expanded enforcement efforts, particularly in the area of cost recoveries, and for research and development projects in support of Superfund activities.

At this time, we also find it necessary to request additional funds for 1984, $50 million supported by 50 workyears, to continue the expansion of the Superfund program and to accelerate our efforts to address uncontrolled hazardous waste sites. These funds will provide increased site investigations, designs, and constructions.

I am sure that the committee recalls my detailed testimony just 1 month ago on the subject of acid rain. Today, my prepared remarks on this issue will be brief.

The President's 1985 budget request more than doubles EPA's resources to support our acid rain research program. We are increasing EPA's research in this area from the $15.4 million to $34.4 million in 1985, a 124-percent increase from 1984. Federal interagency acid rain research efforts double in 1985 to $55.5 million compared to $27.5 million in 1984. In 1985, we propose to expand the basic research program in order to develop the necessary data to fully understand the sources and characteristics of acid rain, and to define the extent of damage caused by acid rain; and, most importantly, to provide realistic options for mitigating its effects.

In addition to the increases in 1985, we are requesting a 1984 supplemental for acid rain research of $5.5 million to support the national lakes survey. There currently is very little reliable data on how widespread the effects of acid rain might be. This program will survey some 2,000 to 3,000 lakes throughout the country, and continue the study of several hundred lakes on a periodic basis in order to give us an accurate and uniform measure of acid rain damage.

Regardless of our position or the position of the committee on a control program, everyone agrees additional research is essential.

Our proposals for our research program seek first to improve the management of our research efforts, and second to strengthen the resource base where it can be used effectively to achieve measurable environmental benefits.

EPA's 1985 research program will be strengthened by an increase of 14 percent, primarily in four areas: Acid rain, which I have already mentioned; understanding the risks posed by hazardous and toxic chemicals; enhancing our research to control pollutants; and lastly, improving the scientific basis for estimating the human health consequences of environmental pollutants.

Solid scientific data can head us in the right direction and help us to devise intelligent strategies for using resources effectively.

I have stated on many occasions that EPA will enforce the environmental statutes of this country. The building blocks of a strong enforcement effort are determination, capacity, and organization.

We have revised our enforcement organization to create a focal point for the development of national enforcement strategy. In terms of capacity, we increased the resource levels of the enforcement program in 1984 and are proposing dramatic increases in 1985.

As for determination, last month I emphasized to my enforcement directors, "The elements of a strong enforcement program are here—you not only have my support, you've got my demand that something be done." In support of their efforts, we are requesting an increase of $32 million and 350 workyears in our 1985 budget.

Sixty percent of the enforcement increases are for the Superfund program. This expanded resource base will enable the Agency to assure an adequate enforcement presence, given the increasing numbers of sites identified and included on the national priorities list. The President's budget also significantly increases EPA's resources for toxic substances enforcement to support additional inspections and case development for the PCB and asbestos-in-schools rules. We are proposing enforcement increases in permits by the end of fiscal year 1985. This will assure that industrial and municipal dischargers have permits in sufficient time to comply with proposed statutory requirements.

EPA's 1985 budget request supports a strong partnership with the State and local governments to carry out large parts of the Nation's environmental protection effort. All grants directly supporting State operations continue at their 1984 levels. The 1985 budget allocates a total of $238 million for grant assistance programs. For the construction grants program, EPA's largest program, we are maintaining the authorized grant level of $2.4 billion.

The President's 1985 budget contains in initiative for the Chesapeake Bay. We are proposing a $10 million program for the bay, designed to support the States through cost sharing grants while continuing EPA's role in monitoring and modeling.

Since I returned to EPA last May, what has struck me the most is the vastly increased complexity of the Environmental Protection Agency's mission. Our budget proposals are most significant in that they are very clearly focused on the emerging needs of the Agency. With these resources, we will be able to deal with the agenda that the President, the Congress, and the people have set for the Agency. These resource needs are a solid foundation for the policies and strategies we as a nation must pursue to assure continued progress across the spectrum of environmental challenges.

Mr. Chairman, that concludes my statement. I would be glad to respond to any questions that you might have.

OMB BUDGET VERSUS PRESIDENT'S REQUEST

Senator **STAFFORD**. Thank you very much, Mr. Administrator, for a very good statement. In view of the constraints of time facing the committee and, we understand, Mr. Administrator, you have an important engagement, we will undertake to release you by 12:15. The Chair would suggest that in my colleagues' first round of questions consume not more than 10 minutes each, if that is agreeable. If necessary, we will have a second round as far as we need to, to accommodate the members.

Hearing no objection, we will proceed in that way.

Mr. Administrator, your September 1983 budget request to OMB proposed a funding level of $1.353 billion, of which 8 percent of the increase above the administration's request would have been devoted to hazardous waste. Will the elimination of that 8-percent money from the hazardous waste program cut back the program to that degree?

Mr. **RUCKELSHAUS**. Mr. Chairman, I don't know that I have that broken down specifically into hazardous waste. I can give you the basic outlines of the difference between what we submitted and what is in the final submission to this Congress.

We have provided to the committee the OMB passback in addition to the request that we made to OMB, and then the President's final budget. The difference between that final budget and the passback really are in five significant areas. One is in the Superfund. About half of the difference between what we requested and what we received is in Superfund. This was based on a desire to expand the Superfund program as we are also doing in our request for supplemental this year to address these issues as we work toward the reauthorization at the end of next year.

It was based on some assumptions about how many sites we were going to address with these remedial investigation feasibility studies and then through construction. As you will note, we have increased this program very rapidly over the last several months, and we will continue to increase this program, both in terms of funding and manpower work-years at the Agency at a very rapid rate. In fact, we are increasing it now in terms of work-years at such a rapid rate, I am not sure we can meet our goals for the end of this year in terms of manpower. We do think we can do that by the end of 1985.

That was about half of what we submitted and what the President's budget finally was.

In the acid rain area, we virtually doubled our research budget. The research budget for acid rain was based on the Deutsch Committee report, which I think this committee has a copy of, and which suggests that, ultimately, the research effort should be higher, but that moving it from where it currently is at about $27 million to doubling it to $55 million over 1 year was about as much as they thought it could absorb. The budget we have submitted to the Congress is exactly what was recommended by the Deutsch Committee.

The State and local grants were 11 percent higher, and then there was a 10-percent increase in water quality and an 8-percent increase in the air program which was not included in the final budget. I could go into the details of those requests and what the cutbacks were.

That accounts for about 91 percent of the difference between what we submitted and what was finally in the President's budget.

REAUTHORIZATION OF SUPERFUND PROGRAM

Senator **Stafford**. Mr. Administrator, to save time, I think I am going to reserve the right to submit some written questions to you for a response in writing, and I think I will limit myself on the budget submission to saying that it is the chairman's view that the original budget submission you made to EPA—I guess I made this clear in my opening statement—is what you really ought to have to work with in fiscal year 1985. Having submitted that budget, it would be the chairman's judgment that you knew you could use it if you got it. We will try hard to make sure you do get it.

Having said that, and your having commented on Superfund, I might ask you a few questions with respect to Superfund. It is being proposed in pending legislation that we extend the program for 5 more years. Would you have any reaction to that?

Mr. **Ruckelshaus**. As the President, Mr. Chairman, indicated in his state of the Union address, the administration is very clearly in favor of the reauthorization of the Superfund. What we hope to be able to do in compliance with section 301 of that law is submit to the Congress in September our assessment of the current law and how effective it is in achieving our objectives and our assessment of what future funding levels will be needed. We have already submitted to this committee and to others in the House, our current assessment of how much money is going to be needed.

Whether at this point a 5-year reauthorization will be enough to accomplish our country's objectives, as Senator Lautenberg has pointed out in his opening statement, it may well be that it is going to be necessary to accelerate this program or to look for new ways of funding it. At this point, it is, I think, a little early to tell. We are expanding this in my judgment about as fast as we can absorb both new people and new assignments.

I fully recognize, as I think the President does, this is not satisfactory to a lot of people who do not see that action is taking place fast enough to suit them. It is those kind of questions that I think we have to explore with this committee and with the committees of the House, but we are, the administration is very clearly committed to supporting the reauthorization of Superfund in some form. Now, whether it could be changed to be more effective, whether you need additional funds in it and if you do, where those funds are going to come from, are all issues that I think need to be addressed.

Senator STAFFORD. The pending legislation on the Senate side of the Hill would suggest doubling the size of the fund. That is, taking it from $1.6 to $3.2 billion which, again, may prove to be inadequate in view of findings that your Agency might make between now and September. However, we will work that out as far as we can together. The chairman hopes this committee is not going to waste any time in getting into that issue.

ACID RAIN RESEARCH

Let me ask you a couple of quick questions on the research program which is going to be conducted. Will that include research with respect to crop damage as well as lake damage?

Mr. RUCKELSHAUS. The acid rain research?

Senator STAFFORD. Yes.

Mr. RUCKELSHAUS. Yes. We do have, Mr. Chairman, several programs involving the impact of acid rain on crops. The summary of our research program was attached to my statement that I made a month ago to this committee, and we would be glad to expand on exactly what that research looks like. We have found, in some cases, that some species of soybeans, for instance, are affected adversely by acid rain. Others are not, but we would be glad to submit that total research effort on crops to the committee.

Senator STAFFORD. All right. I think we would like to see it. I assume it might include research on forest damage as well.

Mr. RUCKELSHAUS. Yes, it will. It is in that area that, in fact, I think we should really put a good deal of emphasis and expansion of our research effort, because some of the recent data that has come to light on forests is disturbing. While it may not be exactly clear what is happening, clearly something is happening in some parts of the Northeast, and we need to understand that.

[The information referred to follows:]

ACID RAIN TERRESTRIAL RESEARCH

The National Acid Precipitation Assessment Program is requesting approximately $9.7 million for terrestrial effects research in FY-1985 which includes studies of crops, forests, soils, watersheds and their impact on aquatic resources. It is important to note that EPA has only a portion of this work with the balance going to other agencies.

	($000's) FY-84	FY-85 Req.
Environmental Protection Agency	1,468	5,610
Department of Agriculture	2,204	3,187
Department of Energy	50	120
Department of the Interior	715	815
Total	4,437	9,732

In the agricultural program the NAPAP research will:

1. Establish dose-response relationships for cultivars of major agricultural crops in field studies under standard growing conditions.

2. Measure the appropriate variables for extrapolation of field and greenhouse experiments to regional effects.

3. Use the results of EPA. USDA and EPRI (Electric Power Research Institute) experiments to establish regional dose-response relationships.

In the forest productivity area NAPAP research will:

1. Establish the geographic and historic extent of growth declines in eastern forests.

2. Identify historical patterns of acidic deposition and gaseous air pollutants, and measure correlations between past and present air pollution and declines in forest productivity.

3. Establish the mechanisms of direct and indirect effects on tree growth of acidic deposition, trace metals and polluting gases.

4. Estimate the long-term responses of forests to anthropogenic stress using succession models.

5. Conduct a major terrestrial survey to determine where sensitive terrestrial resources exist and where the terrestrial ecosystems cause the aquatic resources to be sensitive.

ACID RAIN RESEARCH—HEALTH RESEARCH

Senator **STAFFORD**. There has been recent evidence coming to the attention of the committee that suggests that human health, where respiratory weaknesses already exist, may be affected by acid deposition as well. I wonder if there is any research program for that area?

Mr. **RUCKELSHAUS**. Yes. We have a health research program in as part of the acid rain research effort but it does not address respiration effects. Of course, the current law provides for ambient standards to protect human health as the primary standard that we set. So, we have had ongoing for several years now health effects studies on both particulate matter, in which the sulfate deposition would fall and in SO_2 emissions. Both particulates and SO_2, of course, are covered by national ambient air quality standards.

We are about to announce a proposal for a change in the particulate matter standard which will get at the smaller particles that are of particular concern. We have not only an ongoing health study on that, but also some health effects studies associated with the acid rain research program itself.

Senator **STAFFORD**. Thank you very much, Mr. Ruckelshaus.

Senator Burdick,

Senator **BURDICK**. Thank you, Mr. Chairman. Welcome to the committee, Mr. Ruckelshaus.

Mr. **RUCKELSHAUS**. Thank you, Senator.

OFFICE OF GROUND WATER PROTECTION

Senator **BURDICK**. The Office of Water has recently established a separate office of ground water. Presumably, this Office will oversee implementation of the ground water strategy as well as serve as a central station for ground water concerns throughout the Agency. What is the proposed level of funding for this Office and how many Agency personnel will be assigned to it? Will counterpart offices be established in the regions and, if so, what will the personnel levels be?

Mr. **RUCKELSHAUS**. We had, Senator Burdick, an extensive review of our ground water strategy. We had a task force appointed to do that. One of the recommendations of the task force was that we locate, organizationally within the Agency, the responsibility for coordinating our ground water program. It was a result of that recommendation that the Office of Water does have that responsibility now. Mr. Alm may be able to tell you what the resource levels are.

Mr. **ALM**. Senator, we have currently allocated 10 workyears for this office. That is a preliminary allocation to begin staffing arrangements. We will review the needs for the office over time to determine what its ultimate size will be. Likewise, I have requested each of our regional offices to develop a counterpart office, and I have asked them to give me estimates of resource needs whenever they feel that current efforts are inadequate.

I might make one comment. The Office of Ground Water Protection is designed to coordinate ground water activities within EPA. We will continue to have a major programs dealing with hazardous waste, dealing with Superfund, underground injection control, and pesticides. These activities will continue to be conducted in the program offices as they currently exist. The ground water protection office will be responsible for implementing a consistent policy for the Agency dealing with ground water protection.

UNITED STATES AND CANADA EFFORTS ON ACID RAIN

Senator **Burdick**. Now I would like to go from ground water to the air. As you know, in this country we have pretty good laws. If we build a powerplant in North Dakota, we spend 25 percent of the cost just for antipollution devices. That is done all along the northern border. I don't know how we can ever attack this problem of acid rain without pushing it from a continental point of view. I am told that our neighbors to the north have no scrubbers on any of their plants.

All we can deal with is our own laws, of course, but I think if we are going to answer this problem and all along the northern border, from Montana to Minnesota, the winds are in a northwesterly direction. I know one plant that is 3 miles from the North Dakota border that is spewing out uncontrolled material.

I think we need to have some contact with the Canadians, unless you already have. My advice to you is to use some of this appropriation money to buy them a cup of coffee and find out what they are going to do about it. Can you make a contact with them?

Mr. **Ruckelshaus**. Senator, I have been in constant contact with the Canadians since returning to this job and have attempted to understand their concerns about acid rain, which are deep and vociferous, as you know, and exchange information with them about what the problem looks like and is in this country and get an understanding from them as to what their perspective is. They have pledged, as a nation, to reduce their contribution to sulfur oxides by 50 percent, and they have asked us to do the same.

Up to this point, the administration has not been willing to move that far with them, and I know that there is concern in Canada for them to move on their own in terms of reducing the sulfur oxide emissions as they might affect the acidity of the rainfall in Canada. I have had the kinds of discussions you are mentioning with the Canadians and have suggested to them that when we get to the point where we sit down and try to work out what both countries are going to be willing to do in order to address the problem of acid rain, we are going to need to understand the baseline from which they are starting in order to understand what this 50 percent reduction pledge amounts to.

So, I appreciate your concerns and I am sure the Canadians will as well.

Senator **Burdick**. Yes, but those statements are very fine. I appreciate them, but I would like a little action. I see what I see up there, and I don't see a scrubber on a single plant in Canada. I would like to see a little action up there, because I don't think we can solve this problem if we don't solve it on a continental basis.

Mr. **Ruckelshaus**. Yes, there is no question about that. It is not a problem of the Midwest, New England or Canada. It is an international problem.

Senator **Burdick**. Well, I hope you do it some way, with or without coffee.

Senator STAFFORD. Thank you, Senator Burdick.

The Chair will comment that every time I have had contact with the Canadians, I have urged them to start installing scrubbers on their own. It would improve our chances down here of joining them in some international agreement to control sulfur oxide emissions on both sides of the border. We were making progress, and I have pointed out to them that we do have substantial number of scrubbers and other means of reducing sulfur oxide in place in this country. So, they have been getting the message, and some of them agree they ought to start doing something on their own, but then at other times it seems to be easier to criticize us than to get going.

Senator Lautenberg.

Senator LAUTENBERG. Thank you, Mr. Chairman.

HUDSON AND EAST RIVERS WATER POLLUTION

Mr. Ruckelshaus, in your statement, there wasn't much reference that I saw to water pollution. For my State, which has a 370-mile coastline and, as I indicated, a robust tourist and fishing industry, water quality is a critical issue. Unfortunately, by tomorrow morning, New York City will have dumped an additional 220 million gallons of untreated sewage into the Hudson and East Rivers which will affect us all the way down our coast.

While it is not a pleasant topic, and it is something that people don't like to discuss, my constituents are expressing themselves very clearly and in greater numbers. Simply put, they are asking me why they have to swim in New York City's you know what. The Clean Water Act has been in effect for over a decade. Not one New Jersey municipality is dumping raw sewage into the Hudson. Out State spent billions of dollars to stop this outrageous practice, but New York City continues.

Of course, I have to ask why EPA is permitting, tacitly or otherwise, this practice to continue. Why we have a policy of growth, described as dirty growth, on one side of the river; unrestrained development and lack of compliance with water pollution standards. On our side of the river, we are just not permitting development and growth without some commitment to treat effluents.

I know that New York City is in technical compliance with the law, but the fact is they are dumping raw sewage into the river and continuing to load malfunctioning, poorly performing treatment plants with wastes coming from new development projects. In the past, the World Trade Center; at present, Battery Park City, a huge residential development; and soon, the Convention Center. It seems to me that EPA should put a stop to this.

This morning's paper carried a statement by EPA, by Mr. Ravan, and we welcome it. I would like to have your comments on that position, please, Mr. Administrator.

Mr. RUCKELSHAUS. Senator, when I first returned to EPA, I took a helicopter tour up in New York along the Hudson River and witnessed firsthand what I had witnessed 10 years ago when I left EPA, namely the discharge of raw sewage into the Hudson River, as you suggest. There is nothing that quite matches the impact that it has on you when you see that firsthand. New York was, at that time when I left 10 years ago, on a schedule somewhat dictated by the availability of Federal funds, but also largely contributed to by the State for the abatement of the discharge of those pollutants into the Hudson River.

They are still on that schedule to achieve compliance and, as you suggest, they are technically in compliance in that they are on a schedule to complete the plants that will ultimately insure that the 220 million gallons a day that are being discharged into the Hudson are treated.

I am aware of the frustration of the people on your side of the river from your State who are concerned about this continued discharge and who are impatient at the construction schedule that New York is on to abate that pollution. We believe that the schedule they are on is about as fast as it currently can be so those deadlines can be met. We have been monitoring what has been going on there now for several years with the State of New York. We also think that they will have adequate capacity when those plants are completed to absorb the growth that you mentioned. As to future growth, and whether that capacity will be available to meet that, it is our responsibility to insure that there is adequate sewage treatment available to absorb growth, but we really are not in a position to try to stop growth or make those judgments for New York City based strictly on what our responsibilities are.

On the other hand, we do have a responsibility to insure that they can adequately treat whatever discharges are the result of growth, and we are monitoring that very carefully.

SLUDGE DUMPING AT 12-MILE SITE AND PROPOSED 106-MILE SITE

Senator LAUTENBERG. I incorrectly attributed to Mr. Ravan a statement concerning the dumping of sewage in the Hudson River. In my anxiety to resolve a multitude of problems, I referred to a statement he made regarding the movement of a sludge dumpsite from a 12-mile site to 106 miles out to sea. I will get back to this issue, but I didn't want to have you accidentally agree with my suggestion.

I just wanted to say with regard to the commitment by the city to treat its waste water, it is not only a question of schedule, but also a question of effectiveness. There is considerable doubt about the ability of the plant that are absorbing some of the increased flow to deal with it effectively. The percent of removal(s) I think, somewhere around 50 to 55 percent in the sewage treatment plant in Brooklyn. It certainly ought to be higher.

So, not only is New York City not meeting, in my view, a reasonable schedule to get this stuff treated, but that which treated is not being treated effectively. I would appreciate it, Mr. Administrator, without staying on this subject too long, if you could address EPA's enforcement responsibilities here, and if you would apply them as rigorously as you can. It is a very, very serious question for us.

In terms of the 106-mile site, there is a practice, as you know, of dumping sewage sludge into waters off the New Jersey shore. The sludge dumping at that site, 12 miles off our coast, has been going on for much of this century. It has so degraded our coastal waters that the New York Bight is frequently referred to as the Dead Sea.

These waters are among the most severely degraded in the entire Nation. Contaminants from this sludge not only degrade our waters, but periodically close down beaches in the metropolitan area. Some feel they make their way into the food chain by contaminating fish resources.

The Ocean Dumping Act was passed in 1972. It was supposed to protect our oceans. Five years after it was passed, sludge dumping was increasing, not decreasing, off New Jersey's coast. Frustration over this is at an all time high.

In 1977, Congress passed legislation to end sludge dumping by 1981, a 4-year transition period. But New York City went to court to block this, and the dumping continues; even increases.

After 12 years of moving papers around, I understand that EPA is reaching a decision on site designation. My attribution to Mr. Ravan, I think is correct this time. I want to really see sludge dumping stopped close to New Jersey's shore.

If you can now, Mr. Ruckelshaus and Mr. Ravan, tell me what EPA is going to do—will we move the dumpsite out to the 106-mile site? And will you require that the move take place as quickly as possible? What kind of a timetable are we talking about?

Mr. RUCKELSHAUS. Senator, I am of course aware of this problem. It has, as you suggest, been with us really since I was here before. Since coming back I have encouraged all of our assistant administrators and deputy administrators to be perfectly open with the press. You have just cited Mr. Ravan as having followed that policy. I would like now to see what he has to say about this, so I won't have to read the paper.

Mr. RAVAN. Thank you, Senator Lautenberg. It sounded a little bit like Bill wanted me to do the softshoe of yesterday, but he is absolutely accurate and that is why I could be candid with you during yesterday's testimony, and I appreciated your presence there.

Concerning the 12-mile site: statistically, you are correct. It is a very degraded area, and the National Oceanic and Atmospheric Administration and ourselves have done a great deal of work to confirm that condition. The continued deposit there of sludge materials from New York City would only exacerbate or continue that condition.

We have, indeed, looked at the 106-mile site. It is, by its very name, 106 miles away from the populated area in question, and it is a more dispersive site for disposing of a liquid into a liquid. We are looking for dispersion in that particular case, as opposed to dredge materials where we would like them to stay in the sediment once we deposit them.

The 106-mile site has increased dispersive qualities as compared to the 12-mile site. Consistent with yesterday's testimony, we will make our final decisions with regard to the 106-mile site; that is, designation, and we will make a proposal on the 12-mile site and we will have that work substantially completed by the end of this month.

Senator LAUTENBERG. Thank you very much, Mr. Chairman. I hope that wasn't a softshoe. That implies something less than a full commitment. I know that you mean it to be a full commitment, and we will help you honor that commitment.

Mr. Chairman, will the record remain open for written questions?

Senator **Stafford**. Oh, yes. All members will have the right, and I think Mr. Ruckelshaus has agreed to this, to submit questions in writing. The chairman is going to have to do that himself.

Senator **Lautenberg**. I thank you.

Senator **Stafford**. Senator Randolph.

POLLUTION OF ST. JOHNS RIVER IN FLORIDA

Senator **Randolph**. Thank you, Mr. Chairman.

I regret that I have missed some of the questions of our members, and also to the responses. I did return in time to hear Senator Lautenberg referring to the problems of pollution in the Hudson River. I recall when I conducted a hearing in Jacksonville, Fla., and there was such pollution in what was once the beautiful St. Johns River where there was fishing and boating and water skiing and swimming. It was a veritable paradise. Then, it became a cesspool, the St. Johns River near Jacksonville.

At that hearing, Mr. Chairman, it was something less than satisfactory from the standpoint of what the authorities there knew was happening and the methodology by which the necessary improvement was being taken. I remember the night before the hearing, I had a telephone call from some person who did not give his name, but he said that he wished the next morning that I would ask the question, is there raw sewage being dumped into the St. Johns River from the municipal hospital of Jacksonville?

Well, I asked that question and I found that the answer was true, a hospital dumping raw sewage into the St. Johns River. I know this is a throwback to an earlier hearing, but it comes because of the reference to Hudson River by Senator Lautenberg.

Would EPA be able to bring us up to date by a letter reporting on the present condition in the St. Johns River? I am not asking that it take 7 months to get the reply. As I indicated earlier when the reply came up last night to a request that we have had of EPA which had been pending somewhere 5, 6, or 7 months. I am being facetious and not nitpicking, but I think you could give us an up to date report on that river. Would that be possible?

Mr. **Ruckelshaus**. Yes, it would, Senator. We will get that to you, and I don't think you are nitpicking at all to suggest that 7 months is an absolutely intolerable amount of time for us to respond to a letter from you. There really is not excuse for that kind of delay. We have tried to put in place systems to insure that doesn't recur, but we are obviously not being fully successful. We will just stay with it.

Senator **Randolph**. Well, Mr. Ruckelshaus, you are an effective administrator. That is not a pleasantry. I remember your first service in this Agency at its beginning some 14 years ago. Personally and officially, I am delighted and encouraged and also I am strengthened by the fact that you are at the head of the Agency now.

We have this subtitle D provision. Of course, as you know, that includes the subject matter of open dumping. I am thinking of perhaps offering an amendment in the Senate when the legislation is considered for additional funds for subtitle D. The amendment would have to do with what I call the municipal land fields as well as the open dumps that exist. I am not sure that I will offer that to see if we could have, Mr. Chairman, additional funding, but I emphasize it here this morning.

Senator Moynihan has asked that his statement, Mr. Chairman, be included in the record of this hearing.

Senator STAFFORD. Without objection, it will be included immediately after the opening statements by yourself and others.

Senator RANDOLPH. He will submit questions and request written responses.

Senator STAFFORD. That would be appropriate.

SUPERFUND PROGRAM

Senator RANDOLPH. You have discussed the funding for the Superfund program, and I say to you, Mr. Chairman, and not by way of pleasantry, you were the one who kept it together when we really were fragmented in that long-time effort of weeks and months as we and others were trying to bring that legislation into being. I am sure that you have raised the subject matter here today. Is that correct?

Senator STAFFORD. That is correct. I have a few more questions on it later as well.

Senator RANDOLPH. In your submission to the Office of Management and Budget, Mr. Ruckelshaus, there is a recommendation of $753 million for this Superfund program. That is more than the amount requested for fiscal year 1985 and more than the projected revenues for the fund. I am not sure but that the EPA recommendation was based on an expectation that the Superfund would be reauthorized.

I know that you understand my strong support for this legislation and we know we need it as early as possible. It could come tomorrow, the reauthorization of the Superfund program, and it would not be too soon. And it has to be on an increased level, as I understand it and believe, for expanded purposes, partially those that I mentioned.

Can we expect from your Agency, Mr. Ruckelshaus, that sort of cooperation and reporting to us that will give us the estimates of the costs before concluding those remaining tasks? Also, perhaps some guidance on how to increase the revenues to meet these costs. What would you comment?

Mr. RUCKELSHAUS. Senator, we are obligated, under the existing Superfund law, to provide to the Congress by September a comprehensive report on how the law is working, what the remaining problems are, and how much additional funding, being one of those problems, it will take to solve those remaining problems. We are currently on a schedule to meet the deadlines spelled out in the current statute. I think if you look at the levels of funding that we have requested, since I returned in May of last year, we were then spending at a rate of around $300 million a year. That was in the fiscal year 1984 President's request of $300 million a year. We increased that to $410 million in June of last year with the Congress acquiescence. We are now asking for another $50 million in a supplemental budget this year which will take it to $460 million, and we are then asking for $640 million next year.

It is possible to identify total needs on the existing sites that are on the National Priorities List, much less those that will come on later. It really is more a question of how fast and at what pace we can expand and accelerate this program to meet what are admittedly needs beyond where we are currently funded. That is the kind of issue that we are going to need to address in deciding whether to reauthorize this bill, and at what level it needs to be funded.

Senator RANDOLPH. Mr. Chairman, September is the target date, I believe, but I think we might need to move that forward. I simply for the record would indicate that that might be necessary.

RESEARCH AND DEVELOPMENT FUNDING LEVELS

I appreciate, Mr. Ruckelshaus, the additional funding that you are requesting in connection with acid rain research. There are differences of opinion among the committee and understandably on this subject. I think an important focus for our research must be on the development of improved control technology. How much funding would you think should be available for that purpose?

Mr. RUCKELSHAUS. We are currently requesting funds for the continuation of the LIMB control technology development, Senator. There is money in the Department of Energy budget in the President's request for additional funds for the development of technologies related to the combustion of coal. Certainly I think we do need to address the question of adequate control technologies for the control of sulfur oxides. What we have attempted to do in this budget is identify where those moneys might be wisely spent and request them. The details of that control technology program are in the submission that I gave to this committee a month ago and are in the details of the budget itself.

REGULATION OF CFC'S—PROTECTION OF OZONE

Senator RANDOLPH. My final question, there has to be a consideration by your Agency of further regulation of what we call the CFC's, because that is the protection of the ozone in the upper atmosphere. This is the question: Recent National Academy of Sciences reports indicate that there is less urgency for action on this question. Does EPA agree with that statement?

Mr. RUCKELSHAUS. I know that report has recently come out, Senator, and our research and development office is looking at it. I would be glad to provide for you and for the committee their assessment of that report as soon as it is available.

[The information to be supplied follows:]

THE NATIONAL ACADEMY OF SCIENCES REPORT

The NAS has done a creditable job in its recent assessment of the state of knowledge on "Causes and Effects of Changes in Stratospheric Ozone". The NAS utilized national experts in the variety of scientific disciplines required to evaluate this very complex problem.

Although the NAS predictions for stratospheric ozone depletion in this latest report are the smallest the NAS has made, the range of uncertainty remains large, in fact larger than their estimated value. As more knowledge is acquired, the estimated value is equally likely to increase as it is to decrease. Becasue of the large uncertainties and the complexities of the problem, more research and monitoring is necessary before resolution of the question can be made.

The NAS report states, "we should not infer from it [the small calculated net change] that serious environmental concerns can be abandoned." The NAS report also states, "the evidence . . . suggests that the theory of humanly induced chemical changes in the stratosphere remains valid" and "the destruction of ozone by chlorine atoms is also fully established by laboratory experiments."

My Office of Research and Development is conducting a detailed review of the NAS report. I will send you the review when it is completed.

FUTURE FUNDING NEED IN R&D

Senator RANDOLPH. Thank you, Mr. Ruckelshaus. As always, I think you are not only informing the committee, but I think you are informing the committee on the basis of a background of leadership that we have needed and now have in your presence in the Agency.

Mr. RUCKELSHAUS. Thank you, Senator.

Senator STAFFORD. Thank you, Senator Randolph.

Very briefly, following up on what you have said, Senator, and before I recognize Senator Abdnor which will be momentarily, Senator Randolph has put his finger on a rather delicate subject, and that is that it would be highly desirable if we could resolve future funding needs from your perspective by July 1, because thereafter, certain other national activities may make it hard for us to focus on anything very long or very realistically here in the Congress before the 1st of December.

Commenting on research on SO_2 consumption in fossil fuels, I would recommend to EPA that you have access to whatever results are being obtained at Paducah Ky., in one of the large TVA plants out there where fluidized bed combustion is being used in the 20 megawatt plant.

Mr. RUCKELSHAUS. I am aware of that, Mr. Chairman, and we are following that with great interest.

Senator STAFFORD That is good.

Senator Abdnor.

ASBESTOS IN SCHOOLS

Senator ABDNOR. Thank you, Mr. Chairman.

Mr. Administrator, I am sure you know that several members of this committee together with several other Senators have asked your Agency to assist us in looking into the possibility of developing legislation to give the EPA authority to provide abatement assistance to schools with serious asbestos problems. My understanding is your Agency has developed an excellent technical assistance program and is currently investigating what actions might be taken to step up your regulatory and enforcement efforts. I also understand that you plan to use a significant portion of the additional research that you are requesting for toxic programs to facilitate these efforts.

Could you give the committee any kind of a rundown on your actions to date as well as to what extent you plan to use additional resources you are requesting for addressing this potentially serious threat to many of our schoolage children?

Mr. **Ruckelshaus**. Let me comment on your question in general, Senator, and then ask Mr. Alm to comment, because he has been very actively involved in this whole problem over the last several months.

It is clearly a problem of considerable magnitude and one that we have been pursuing very hard. We have recently published in the Federal Register a request for reaction to some activities we worked up that might accelerate our efforts to get at the question of asbestos in schools and see if we can't encourage the various school boards around the country to move more aggressively.

We are not totally satisfied that what it currently going on is adequate to address the problem. We are making some progress, but we think we ought to be making more given the nature of the problem.

I will now ask Mr. Alm to give you a brief resume of what we are doing.

Mr. **Alm**. Senator Abdnor, first of all, we have conducted two program reviews of this program which has only been in effect since midyear of 1983. That represents a real commitment by EPA to follow how the program is doing. Those reviews have led us to take a number of actions. We have doubled the resources for the programs. We are basically doubling the number of inspections of school districts to assure that they are complying with our regulations, and we are evaluating further augmentation of our resources to provide more inspections and technical assistance.

We are looking, as the Administrator indicated, at a whole range of regulatory options to strengthen our capacity to deal with this problem. The Administrator has sent guidance to our regional offices that they should consider the use of press releases to inform the public about the potential dangers from asbestos and to inform about progress by school districts in making the necessary inspections and notifying parents.

Finally, we are now in the process of considering civil actions against school districts that are not in compliance. If we should take such an action, we would make it clear that if the school district comes into compliance, the fines assessed could be used for cleanup purposes.

Senator **Abdnor**. Mr. Alm, what was that? The school district would use the what?

Mr. **Alm**. If any fines were assessed in a civil action, those moneys could be used for cleanup rather than simply collecting them in the Federal Treasury. Overall, we have taken a number of very aggressive steps. We have indicated in our program guidance to the Agency that we consider this a very high priority and something that has to move along very quickly.

Senator **Abdnor**. I am pleased to hear that. Do you think most of these schools are financially in a situation to correct their problems? Is this a very costly thing?

Mr. **Alm**. It depends. In many cases, the best thing to do is not to clean up, but rather to encapsulate the asbestos. In some cases, cleanup is a better option. There is no doubt that schools in the United States face a lot of financial pressures, but we have found nothing in the evidence thus far that indicated that the particular income level of the children attending the school has any clear relationship with the willingness to clean up.

For example, based on very preliminary information, it appears that public schools, which have more serious financial problems, have been somewhat better in taking abatement action than private schools. At this point in time, it strikes us that the major problem is not money, but rather will, commitment by the school district and commitment by the parents to bring about action.

Senator **Abdnor**. I was just shown an article from the New York Times, and I have no proof that the man knows what he is talking about, but the article says that when cleanup actions do take place that it is usually in wealthy school districts where costs will not impose a burden on taxpayers. Department of Education has estimated an average cost of $100,000 per school to clean up the asbestos. I don't know if that was by one of your people or not. I wijll find it and mail it to you. I suppose there are a lot of comments that cannot be verified maybe or backed up, but your investigations to date clearly show that financial status of the school really has no relationship to the problem. Is that right?

Mr. **Alm**. I believe what I said, Senator, is that very preliminary data indicates that this is the case. We are conducting a survey that will be finished in May. This survey should give us some more definitive information. If we find that money, financial resources is a problem in impeding the program, obviously we would have to consider the possibility of seeking funds. Based on our current evidence, that is not the case.

Senator **Abdnor**. But May will tell us something, right?

Mr. **Alm**. Yes, sir.

NATURAL RESOURCE DAMAGE RESULTING FROM SUPERFUND CLEANUP

Senator **Abdnor**. Thank you.

One last thing and that is, Mr. Administrator, the State of South Dakota has filed a written claim last December pursuant to sections 111 and 112 of CERCLA for damages against the Superfund for destruction of its natural resources. My understanding is that although the Department of Interior was to have promulgated regulations to implement these sections of the statute, the Department has failed to do so. In spite of the fact that no regulations have been developed, South Dakota's claims which were submitted to your Agency prior to the statutory deadline were rejected outright.

This is a matter of great concern to me and particularly to my State. From what I hear, a number of other States are in a similar circumstance. Could you provide us with a written account—I know you can't do it here—but a written account of the number of States and localities which filed claims under sections 111 and 112 prior to the deadline, and how many State have sustained natural resource damage and to what extent they might expect to be compensated through the Fund? I will just leave this with you, if I can.

Mr. **Ruckelshaus**. We would be glad to do that, Senator. That is, needless to say, a controversial issue at this point. We are examining ways of addressing it inside the Agency. The Interior Department is preparing regulations which they are going to issue on this subject. We do know that there are States which feel that they have complied with the requirements of the law. The requirements are quite specific as to what it is that they are supposed to do. I think our response at this point to States like South Dakota and others that have made claims are consistent with those statutory requirements. We do know that there is a good deal of concern being expressed by not only South Dakota but other States about whether the Federal Government acted soon enough in order to put in place a process that they were to follow in order to make the claims.

We are reviewing all of that and trying to come up with a policy that is both equitable and consistent with the congressional mandate and one that makes sense. We will supply you with the information.

Senator ABDNOR. Very good. My State feels very strongly about this; they have been all over me about it. This was an opportunity to ask the question. Thank you.

Thank you, Mr. Chairman.

[Material referred to follows:]

STATES AND LOCALITIES FILING CLAIMS UNDER SECTIONS 111 AND 112 OF CERCLA

There are four States which have filed claims under Sections 111 and 112 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCAL) prior to the December 11, 1983 deadline. These states are:

1. New Jersey—26 claims for $1,269.0 million.
2. Colorado—22 claims for $1,100.0 million.
3. South Dakota—6 claims for $300.0 million.
4. Idaho—3 claims for $75.1 million.

The Agency has sent letters to each of the four States advising them that they have not submitted valid claims to the Fund. None of the four States' submissions documented both necessary preconditions for filing a claim to the Fund. The two preconditions are: (1) presentation of the claim to the responsible party, as required by section 112(a) of CERCLA; and (2) development and adoption of a restoration plan, as required by section 111(i) of CERCLA.

There are two States which filed inquiries regarding claims. These States are Utah and Florida. EPA responded explaining the procedures for filing claims and notifying them that their letters did not preserve their right to file a claim after the legislatively established deadlines.

Aside from the six States mentioned above, no other States have submitted any information relating to natural resource damage. We will deal on a case-by-case basis with any valid claim and determine what level of compensation is appropriate.

Senator STAFFORD. Thank you, Senator Abdnor.

Does that complete your questioning?

Senator ABDNOR. Yes, it does.

SUPERFUND RESOURCES

Senator STAFFORD. There is 20 minutes remaining, so I would say to Senator Lautenberg we might divide that between us, if you want to continue.

Senator LAUTENBERG. Very kind of you, Mr. Chairman.

Senator STAFFORD. If some other Senator comes in who has not had a chance to ask questions, we would yield some of it to him.

Mr. Ruckelshaus, to return to your budget submission of $753 million for Superfund, I would assume that you could use the $753 million if it were all available to you or you wouldn't have made a budget request in that amount.

Mr. RUCKELSHAUS. That is an interesting way of asking the question, Senator.

Let me give you a broad answer on that. Obviously, as an administrator of an Agency like this, having made a submission to the OMB, to the President with a budget request, it was my judgment at the time I made the submission that I could use the money, that those were areas in which it would be possible for me to wisely expend money consistent with what the Congress wants us to do. Having made that submission, it is then up to the President to decide how whatever moneys he is willing to spend ought to be allocated.

I think under that allocation process we have done quite well. I think we have done well in the Superfund program in particular. While it may well be that we can identify needs in the country for the additional expenditure of funds under the Superfund, when we look at the rate of increase of that program over the last 10 months, it has been very rapid. One thing I am concerned about is our ability to absorb that much money that fast without wasting it. When we go from a program of $310 million to $640 million over a period of 2 fiscal years, we are moving very rapidly and, as I say, I think we are going to have trouble meeting our own workyear goals for this year on the basis of how fast we are currently able to staff up. We are trying to maintain quality control at the same time we put more people on, but it is going to strain our resources to do that.

So, while I think, yes, anybody worth his salt could probably justify an expenditure of more money, it is the President's responsibility to make that allocation. Under the allocation that was made and on the basis of how other domestic agencies have done given these very large deficits this country faces, I think we have done very well.

Senator STAFFORD. I anticipated that would be about your answer. Hypothethically, should you have the $753 million, that would more than exhaust the fund, as I understand it. So, this question is again somewhat hypothetical, but should that much money be available and should that exhaust the fund, as it would, to be able to spend that much would require us to extend Superfund this year, I guess, in order to make that amount of money available.

Mr. RUCKELSHAUS. Yes, or to appropriate it separately which there is, in fact, some monies appropriated separately for the Superfund now. We don't cover the entire fund through the tax.

EPA'S ENFORCEMENT PROGRAM

Senator STAFFORD. Right. Let me say that the Chairman is very much encouraged by the administration's request for a 28-percent increase in funding for enforcement Agency wide and the 17-percent increase in personnel. The September submission to the Office of Management and Budget proposed total funding for enforcement of $182 million, 18 percent over the current request. May I ask what proposed activities or level of activity will have to be reduced or eliminated by the 18-percent reduction?

Mr. RUCKELSHAUS. I went through earlier with you, Senator, some of those major reductions in the air and water programs. There would be some reduction in the numbers of permits which we think we can issue. On the other hand, I think we can get through most of the major in water, in particular where we requested additional authorities, reissuance of these permits in a reasonable period of time.

The enforcement budget includes not only enforcement attorneys but technical people as well who are spread throughout the programs. My current concern, to be honest with you, is not the number of people that we have in enforcement which has increased very rapidly over the last several months, but the enforcement activity involved and exactly how we can wisely organize and conduct an enforcement program that can successfully utilize these very large increases in our enforcement budget.

Senator **Stafford**. Your increased personnel in enforcement has not been achieved by taking them from some other part of the EPA?

Mr. **Ruckelshaus**. No, it has not.

Senator **Stafford**. Projected second quarter fiscal year 1984 administrative actions are double the first quarter actions for EPA and 40 times higher for the States. What is the basis for these projections and what do you project for the rest of the year?

Mr. **Ruckelshaus**. Mr. Alm may be able to answer that. He may have the numbers right in front of him, Senator.

Mr. **Alm**. If we take total administrative actions, they would be up two-fold over the first quarter which would be 576 actions compared to 225 for the first quarter. This would put us one-half way toward the end of year target of 1,435. In other words, our projections for the second quarter would allow us to meet our end of year target. This is true for all the programs except for RCRA. In terms of RCRA, it is going to be important for the Agency to work a little harder to make sure we meet the targets, and we might fall slightly behind. But in the other programs, we should meet the target.

Senator **Stafford**. Summary statistics provided to the committee show the number of cases referred to Justice for the first half of this year are slightly below the comparable period last year. While I realize the number of referrals is not an accurate measure of enforcement activity levels, it is one of the few measures we have. My question is, do you expect the number of referrals to increase in the latter part of the year?

Mr. **Alm**. Mr. Chairman, in the second quarter we expect referrals to increase threefold, from 26 to 82 and this would put us just slightly shy of half-way to our end of year target of 253. We have no reason to believe that that target will not be achieved.

Senator **Stafford**. As we have said, we will have some questions in writing. In the interest of time, we will send them to you, and in view of the fact, Mr. Administrator, we have to submit our budget figures to the Budget Committee next Tuesday, if any figures that we ask for and any questions that are submitted that involve figures could be back to us by Monday, it would be much appreciated by the staff and by the committee.

Mr. **Ruckelshaus**. We will do that, Mr. Chairman.

Senator **Stafford**. All right. Thank you.

Senator Lautenberg.

CONTRACTING OUT SUPERFUND SERVICES

Senator LAUTENBERG. Thank you, Mr. Chairman.

I was very interested in the way the chairman put the question to you, Mr. Ruckelshaus, about your budget request and how you tried so deftly to avoid confirming your earlier conviction that the request was necessary. I always admire someone with principle and conviction. It is hard to deny it when you have it. I am interested in the statement that you make about wanting quality. I come from business and I know how hard it is to build an organization, but when the fire is on you can't perhaps always get the qualified firemen and you push people into a bucket brigade and you work with it. We are dealing, I think, with items of such critical character that they might be described as bordering on that kind of a situation.

Is it possible by way of contracting out services to enhance the ability of the Agency to deal with some of these problems on a more timely basis?

Mr. RUCKELSHAUS. Are you referring specifically to Superfund now?

Senator LAUTENBERG. Enforcement, yes.

Mr. RUCKELSHAUS. Enforcement, I think would be hard to do, but Superfund, we do have a lot of contracting out now. In fact, a lot of that money is spent with both prime contractors and then some subcontractors for a lot of the activity that occurs around these sites.

Senator LAUTENBERG. OK, because it seems like the way to do it. Obviously, you recognize the need to get on with these things. The pace is always too slow, and if there is a way to solve the problem, I would encourage you to jump to it. As much competent outside service as we can buy, effectively, certainly we ought to do that. As I reread your statement this morning, you say our budget proposals clearly focus on the emerging needs of the Agency. I think that if we permitted you to, that you would have said the emerging needs of the country instead of the emerging needs of the Agency.

Can you imagine extending Superfund for less than 5 years or providing less than double the funding that we have now, given the discovery of new crises and new problems?

Mr. RUCKELSHAUS. Certainly not less than 5 years. In fact, our analysis shows that it is going to be very difficult to get this behind us in 5 years no matter how much money we put in or how hard we try to solve it. It simply is not possible for us, I think, whether it is EPA or whoever it is to solve this problem that fast. I can't personally conceive of anything less than 5 years being possible.

In terms of the money, it is sort of two questions. One is the pace at which you think we would like to move forward, and the second is the capacity to do it at a faster pace within some sort of reasonable quality control bound. To the extent that the more experience we get with the sites that we are currently working on, the more knowledge we gain about how best to go about it, the better position I think we will be in to recommend to the Congress exactly what form a reauthorization bill should take and at what pace we believe it is possible to get these sites cleaned up.

Senator **Lautenberg**. I think the funding for the first authorization was somewhere around $1.6 billion, am I correct?

Mr. **Ruckelshaus**. That is right.

Senator **Lautenberg**. It is hard, as we talk about multiples of that, to imagine that something less than twice that could come anywhere near the job, despite the pacing question which I certainly understand.

Mr. **Ruckelshaus**. In fact, our preliminary estimates are that it will take more than twice that to finish the job.

CONSTRUCTION GRANTS

Senator **Lautenberg**. OK. A question about the wastewater treatment construction grants program, you know, when the program was reauthorized in 1981, at the administration's insistence, funding was cut in half. The Federal share for projects was reduced by 20 percent; from 75 to 55 percent. I think that some people in the administration, more specifically at OMB, would like to see even this amount of Federal assistance ended when the current authorization expires. New Jersey, under the current program, receives $100 million a year in construction grant funds. The backlog of projects is enormous; it is over $2 billion, somewhere around $2.4 billion. Current EPA policy is that municipalities must be in compliance by 1988, or in the works, whether or not Federal assistance is available to them.

Given the water quality needs of the Nation, what is your view of the future of this program?

Mr. **Ruckelshaus**. In the first place, Senator, I think that while there may be some at OMB who would prefer not to see this kind of program continue, I have not run in personally to those people at OMB, and there is an understanding that there is an agreement with the administration with the Congress that for 10 years this level of funding, at least, is a commitment. If you will note the difference between what we submitted to the President in terms of our budget and what we are now requesting is somewhat less. We went down to $2.37 billion, and it went back up to $2.4 billion as a result of that commitment. That was something that the administration put back into the budget over our submission.

Now, if you look at the total needs of the country, much less New Jersey, you can justify higher levels of expenditure. Again, it is a question of where does the money come from, at what pace should we seek improvement. When I was at EPA 10 years ago, we were about at this level of funding. It peaked in the middle 1970's at about $5 billion, and then started back down again.

One of the problems that we periodically have in these kind of very large public works projects is keeping a sustained level of funding that in fact addresses the needs of the country. As support for this kind of thing ebbs and flows and as money problems emerge, what we see is a movement up and down. The agency, as you suggest, was given the responsibility of ensuring compliance by 1988 regardless of the availability of funding. What we have done over the last 25 years by creating a construction grant program where the promise of Federal money to be there was part of the overall program is really inhibit local communities from going ahead on their own and instead waiting for the availability of Federal funds.

Where the money is at the $5 billion level, they have a pretty good chance of getting it, and where it is half that, they have less. In the meantime, we are charged with the responsibility of enforcing these laws regardless of the availability of the money. What happened is we run into these kinds of roadblocks associated with Federal funds being available.

Senator LAUTENBERG. OK. In order to protect the good will of my chairman, I would deal fairly with his time allotment and say thank you, Mr. Chairman. Again, we have assurance that the record will remain open for further questions. I thank you, Mr. Ruckelshaus.

Senator STAFFORD. Yes, Senator Lautenberg, I would suggest that if you have questions that will bear on our submission to the Budget Committee from this committee, that you get them to the Agency as quickly as you can so they can answer them by Monday afternoon.

Mr. Administrator and your colleagues, I see you have the whole first team up here. We appreciate your being here. As it is, we are going to get you out of here right on time and wish you all good luck.

Mr. RUCKELSHAUS. Thank you very much, Mr. Chairman.

[Whereupon, at 12:12 p.m., the committee recessed, to reconvene at the call of the Chair.]

[Responses from EPA to additional questions and statements from agencies not appearing at the hearings follow:]

Questions for the Record Submitted by Senator Stafford

OPERATING BUDGET - GENERAL

Question: What is your estimate of the highest technically achievable operating level for the operating budget -- by appropriation account -- and for the Superfund program?

Answer: As you know many environmental and other interest groups, as well as members of Congress have varied opinions on how much higher EPA's budget should be. The budget proposals you have before you are our best estimate of what this Agency can spend -- in a responsible manner -- in 1985.

GRACE COMMISSION RECOMMENDATIONS

Question: Please specify where Grace Commission savings are recommended, and how much they total for the Agency.

Answer: We are implementing a number of the recommendations made by the Grace Commission. We anticipate these actions will result in Agency-wide cost avoidances of $49.5 million and savings of $5.0 million over a three year period. The projected savings of $5.0 million has already been included in EPA's Congressional budget submission. Following is a summary of the Grace Commission recommendations and our implementing actions:

1. Recommendation: That EPA simplify its procurement process and improve procurement management.

   Implementation: Formal training of project officers, consolidation of similar contract requests, and improved alternative source selection procedures are under way.

   Projected Savings - 1985-1987: $18 million in cost avoidances.

2. Recommendation: That EPA improve productivity of its research activities.

   Implementation: Extramural research budget has been reduced since 1981. Five-year research plan has been developed. Centralized data base of research activities is being developed.

   Projected Savings - 1985-1987: $6 million in cost avoidances.

3. Recommendation: That EPA modify organizational structure to abolish small organizational units and eliminate certain "special assistant" and "deputy" positions.

   Implementation: Small organizational units are being reduced. Specific positions are being reviewed for possible elimination. Twenty deputy positions to be eliminated over three-year period.

   Projected Savings - 1985-1987: $5 million. Savings already included in Congressional budget submission.

4. Recommendation: That EPA consolidate ADP systems/organization and streamline use of automated data processing services.

   Implementation: Large-scale data processing activities will be consolidated and the equipment updated. Use of Treasury and HHS data center support needs further study to determine possible reduction in use.

   Projected Savings - 1985-1987: $25.5 million in cost avoidances.

OPERATING BUDGET-OMB REQUEST

Question: Your September, 1983 request to OMB for the operating budget recommended a total funding level of $1.353 billion.

- o Eight percent of the increase above the Administration request would have been devoted to hazardous waste. What aspects of the hazardous waste program will be cut back because of the failure to get that additional 8 percent?

Answer: Let me begin my response by pointing out that the 1985 Budget for the Hazardous Waste program has been increased by $40 million over the 1984 level, reflecting the President's and my view that the control of Hazardous Waste is of utmost environmental concern. Having said that, I will explain some of those items contained in my request to OMB which are not funded at the requested level.

The reduction to the research and development portion of the hazardous waste program occurs primarily in the engineering program where the resources provided for land disposal and alternative treatment technologies were deemed sufficient given the status of RCRA regulations and industrial efforts in these areas. The Agency also decided to expand the time frame for completing some of the miscellaneous regulatory amendments to existing rules and minor hazardous waste listings which are not mandated by the current statute.

The three percent reduction to the permitting program will minimally reduce EPA technical assistance to and oversight of the States. The grant will continue to provide sufficient funds to maintain the State permitting and enforcement efforts at the same level as 1984. EPA oversight of State inspections was also reduced. These are used to evaluate the quality of State inspections and the effectiveness of their enforcement programs.

The President's request contains sufficient resources to do approximately 900 oversight inspections at hazardous waste facilities to evaluate the quality of State inspections and the effectiveness of State enforcement programs. We believe that the level of activity is adequate to ensure quality State enforcement programs.

Question: Over one third of the increase above the levels presented in the President's budget would have been devoted to the air and water programs. Could you specify for the Committee how those increased resources would have been used?

Answer: In the Air program, the reductions to the research and development portion of the air program occur primarily in the Hazardous Air Pollutant (HAP) and Gases and Particles (GAP) programs. In HAP, the reduction occurs in the elimination of an indoor air research program where EPA lacks regulatory authority in this area. In GAP, the reduction occurs in health effects research and in regional air modeling programs where sufficient resources were already available. Between 1984 and 1985, there is an overall increase of $3 million in air research.

In addition, the reduction to the Abatement and Control portion of the air program occurs primarily in the portion of State grants which were to assist State and local agencies in responding to anticipated new regulatory initiatives for acid deposition. This is consistent with the Agency's position to support only research and development efforts for acid rain. In addition, Headquarters and Regional resources to implement an acid rain control program were reduced. Other reductions reflect completion of technical studies and analysis supporting development of stationary source standards.

In the area of air enforcement, the reduction to the Enforcement portion of the air program occurs primarily in the mobile source tampering and fuel switching and recall programs and in the stationary source inspection program. The mobile source effort was almost fully funded in 1985 and the reduction in extramural resources for the stationary program can be attributed to the Agency's emphasis on conducting inspections with EPA employees rather than by contract. The shift from contractor inspections is due, in part, to court rulings limiting the use of contractors for inspection purposes.

In the Water program, the reduction to the Research and Development portion of the water quality program occurs primarily in the municipal wastewater engineering program. However, municipal wastewater research is increased from 1984 reflecting new initiatives in the areas of treatment plant compliance and the reduction of toxics in wastewater, as well as additional support for water quality regulations and standards.

Regarding the water quality abatement and control area, all programs increase from the 1984 FTE levels with the exception of Effluent Guidelines where the original OMB request was less than the 1984 level. Approximately 73 percent of the funds reduced from the original OMB request occur in two programs, Water Quality Management and Clean Lakes. In the water quality management program, the President's Budget does not fund our original request for a nonpoint source implementation program at the Federal level; adequate funds are available for effective oversight of States' use of Section 106 and 205(j) funds for this purpose. This is consistent with the Agency's position that nonpoint source programs can be managed and implemented most effectively at the State level. The reductions in the Clean Lakes program are sufficient to continue phasing out existing restoration projects.

In other areas such as monitoring, standards and regulations, ocean disposal, dredge and fill, and municipal waste treatment, the President's Budget, while not equal to the original request, provides adequate resources for the Agency to carry out priority activities such as the National Dioxin Study, technical assistance for biomonitoring, development of sludge and marine criteria, wetlands protection and management of construction projects by the Army Corps of Engineers.

In the Great Lakes program, no funds are provided for open lake monitoring, the air deposition network, or continuation of the connecting channel study.

The President's Budget does provide an additional $5.8 million for the Cheaspeake Bay Program over the original request. These funds will support operation of the National program office, cost-sharing grants to demonstrate various methods on controlling non-point source pollution, and demonstration projects on nutrient and toxics control.

The President's Budget fully funds the original request for permit issuance in the Regions. These resources will allow the Agency to eliminate the backlog of major NPDES permits in unapproved States by the end of FY 1985.

In the water quality enforcement program, the President's Budget will provide for a smaller initiative to take enforcement actions that support the beginning of a National Municipal Policy to encourage POTW compliance. The proposed 1985 levels are, however, adequate to implement the policy at this stage of its development.

In the Drinking Water program, the reduction to the Research and Development portion of the drinking water program occurs primarily in the areas of health effects and engineering research. Resources that would have been utilized to accelerate current research on disinfectant by-products and corrosion in water distribution systems are not funded because this research will be sufficiently maintained at the base level. In addition, resources will be increased for health and monitoring over 1984.

The reduction in the Abatement and Control portion of the Drinking Water program occurs primarily in the area of State grants: in the Public Water Supply Supervision (PWS) and the Underground Injection Control (UIC) Programs and the Special

Studies and Demonstration Grant, which has traditionally supported the National Rural Water Association. The 1985 President's Budget maintains PWS and UIC at 1984 levels. In addition, States have the ability to raise revenues, for example, through permit fees. The Rural Water Association is encouraged to seek self-sufficiency. Other reductions primarily related to personnel costs ($1.7 million) are for additional work beyond that already funded in the base.

In the area of drinking water enforcement, the reduction occurs in the area of permit issuance for the Underground Injection Control program in non-primacy States. The President's Budget does include an increase of 5 FTE over the FY 1984 levels which will support the first full year of implementing this program.

OPERATING BUDGET-TOTAL AGENCY WORKYEARS

Question: Total Agency workyears are projected to increase by 750 between fiscal year 1984 and fiscal year 1985. Last year, there was considerable concern that a projected increase in workyears was overstated because many of the "additional" workyears covered personnel already working at the Agency.

- o Could you summarize for the Committee the status of personnel on board in relationship to the total work years projected for the Agency in both fiscal year 1984 and fiscal year 1985?
- o If possible, differentiate increases in headquarters and the regions.

Answer: The following table depicts our personnel on board as of January 31, 1984 in relationship to the total workyears projected in both fiscal years 1984 and 1985.

	Personnel On-Board 1/31/84			1984 Total Workyears	1985 Total Workyear Request	Increase from 1984
	PFT	OPFT	TOTAL			
Headquarters	5,742	1,116	6,858	6,777	7,048.2	+271.2
Regions	4,064	587	4,651	4,770.8	5,249.6	+478.8
Total	9,806	1,703	11,509	11,547.8	12,297.8	+750.0

SUPERFUND

Question: We are all aware that the $1.6 billion Superfund will not be adequate to respond to the large number of sites requiring cleanup. The budget documents report that an additional $50 million for FY 1984 requested for the Superfund program will support increased remedial investigations, design, and construction. The FY 1985 request of $640 million will support expanded site construction.

Your submission to OMB totalled $753 million for the Superfund program. I presume that the funding level must have assumed that resources beyond those currently authorized would be available for this type of activity in FY 1985.

The OMB "passback" figure is based on no new authorization until FY 1986.

a. Does the budget proposal before us now reflect a restructuring of the program based on OMB's assumption?

Answer: The 1985 request of $640 million reflects recent policy decisions most importantly the decision to subject dioxin sites to the same criteria applied to other hazardous substances response actions as opposed to developing a system that would address dioxin under a separate priority setting system. In addition, the $640 million requested reflects our judgement of resources that can be effectively used to support on-going work and sustain the momentum of the program, while ensuring the quality of the response actions taken under Superfund.

Question: b. What level of budget authority can we recommend if we intend to exhaust the resources available to the fund in FY 1985?

Answer: Based on current estimates of expected receipts to the Trust Fund as authorized and enactment of the $50 million 1984 supplemental request, an appropriation of approximately $698 million would exhaust the resources available to the fund in 1985. This level would require an appropriation of $100 million from General Revenues to the Trust Fund pursuant to Section 221(b)(2)(E) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

Question: c. If the Committee acts this year simply to extend the authorization at current levels beyond FY 1985, what resources will be available from the fund in FY 1985?

Answer: The amount available for appropriation under reauthorization at current levels is dependent upon many factors.

If the current taxing authority of section 221 and the borrowing authority of section 223 are reauthorized in 1985, Congress could, based on the borrowing provisions of CERCLA, appropriate more than is currently estimated to be available in 1985. Based on Treasury tax estimates, a one year reauthorization would generate tax revenues of $281 million. However, any appropriation in excess of Trust Fund receipts ($642 million to $698 million) would reduce the amount of funds otherwise available in later years to support the higher level of programmatic activity.

Question: d. Could you obligate $753 million funds in FY 1985?

Answer: The $753 million request to OMB reflected our best judgement of what would be required to support the program as then envisioned. This included approximately $100 million for dioxin-related activities, although the amount of that work required for 1985 was not clearly known at that time.

We have continued to define both dioxin-related workload and how best to address the problems posed by dioxin contamination. The decision to subject dioxin sites to the same criteria required for other Superfund response actions and revisions to the potential workload related to dioxin resulted in a decrease in our program needs.

The amount of funds which could be obligated in 1985 is dependent on many factors, some of which are beyond our control. Two are especially notable. First, the State must be prepared to begin work at the site or to proceed to the next phase. In the case of a remedial action, this includes providing the 10% State cost share. Second, in the case of designs and remedial actions, the preceding phase of work at the site must be completed. Work completion can be affected by factors such as bad weather, discovery of additional hazardous waste, etc. The budget request of $640 million represents our best estimate, at this time, of the number of sites where we will be able to proceed.

Question: e. How many remedial actions could the $753 million figure support.

Answer: The $753 million request to OMB was intended to support 50 remedial actions (constructions). For all practical purposes, the 46 remedial actions we are planning within the $640 million requested represents a refinement of the original estimate prepared in early June. The $100 million decrease is more related to a reassessment of the expected workload associated with dioxin contamination.

Question: f. Could you explain how the dramatic increase in the resources available from fines and recoveries from $6.0 million in FY 1984 to $46.0 million in FY 1985 will be achieved?

Answer: The Agency is expanding its efforts at every level to ensure an increase in revenues from cost recoveries. During 1985, the Agency expects to initiate and refer to the Department of Justice an increased number of cases against the more costly remedial phases of the program conducted in 1984 and early 1985. These cases will be those for which the costs are well documented, better ensuring the chances of success. While cost recoveries against remedial actions are complex and unprecedented, they provide greater revenues for the Trust Fund. Additionally, in 1985 we will be able to enter into more negotiations with responsible parties as we complete remedial investigations/feasibility studies. We anticipate that these negotiations will result in some "up-front" cost recoveries.

Question: Please review for the Committee the relative composition of your FY 1985 request for the Superfund program by agency, and specify whether funding proposals from other agencies were reduced by EPA before the request was sent to OMB. We would appreciate your assistance in providing documents supporting those negotiations for the record.

Answer: The following table summarizes other agencies' 1984 budget authority, their 1985 requests to EPA, EPA's 1985 request to OMB, and the 1985 President's request to Congress.

Interagency Support
($ in thousads)

Agency	1984 BA	1985 Agency Request to EPA	1985 EPA Request to OMB	1985 President's Budget
HHS	$5,000.0	$18,402.0	$16,295.0	$ 9,495.0
USCG	3,674.4	8,432.9	4,192.0	2,192.0
DOJ	3,282.4	5,200.0	4,822.0	4,822.0
NOAA	250.0	667.0	500.0	500.0
FEMA	--	1,105.0	234.0	234.0
DOI	315.0	355.0	355.0	355.0
OSHA	151.6	222.4	222.4	222.4
Total	$12,673.4	$34,384.3	$26,620.4	$17,820.4

The attached letters from EPA to the listed agencies describe the bases for the changes made by EPA to those agencies' requests.*

The President's Budget provides funding for Federal agencies' ongoing responsibilities under Superfund. Ongoing activities are those non-incident specific activities associated with agencies' program implementation. The President's Budget differs from EPA's request to OMB in two areas. The Department of Health and Human Services funding for toxic chemical testing and disease registries that are not site-specific was eliminated. Further review of the request for funds to support these activities revealed that the work was not required solely to support Superfund responsibilities, nor were they required by the statute or the consent decree interpreting the statute. Consequently, such work is more appropriately funded through other appropriations. Resources for the United States Coast Guard were reduced to correspond to the low level of spills for which Coast Guard response has been needed, and because training activities funded in 1984 need not be repeated.

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* Retained in committee files.

RESEARCH AND DEVELOPMENT

Under the FY 1985 budget proposal, research and development would increase to $278 million, a boost of 13 percent, or $33 million. I found this increase encouraging. However, a recent article in Science Magazine entitled " Sleight of Hand with EPA's Budget" states that this increase is more than offset by a reduction of over $50 million in environmental research conducted by other agencies.

Question: I recall from your testimony that most of the increase requested for research and development will be devoted to acid rain. Could you explain the rationale for establishing the other research priorities.

Answer: Research priorities for a given area are established through a communication and negotiation process with the appropriate client offices. The primary vehicles for fostering this communication are research committees, which have as members managers from the Office of Research and Development (ORD), the regulatory program office, and regional offices. Once each of the committees has expressed its priorities, ORD management must carefully weigh the often competing demands for resources to determine overall research priorities. These overall priorities are developed to respond to the Agency's priorities as expressed by the Administrator in his annual guidance.

This year, in addition to acid precipitation, our leading priorities are the following:

° Better understand the nature and effects of hazardous and toxic chemicals. This responds to the top EPA priority to better manage and control these substances.

° Strengthen human health and risk assessment research to improve the scientific basis for estimating the human health consequences of exposure to environmental pollution.

° Strengthen engineering research and technology assessment support to regulatory activities in order to determine improved control solutions to complex environmental problems.

° Ensure that all data generated and used by EPA is of acceptable accuracy and reliability.

Question: The research plan does not seem to address the research eliminated by cuts in other agencies such as ocean dumping and Great Lakes research. Would you consider picking up the slack in those areas in this or future years?

Answer: In 1985, EPA is requesting a total of $4,033,000 for Ocean Disposal Research and a total of $2,510,700 for Great Lakes Research, none of which addresses those research areas that have been eliminated in other agencies. Before EPA could attempt to incorporate those research objectives a careful evaluation and assessment of its own research priorities, available resources, and the relevancy of the work to its Congressional mandates must be made. However, EPA is willing to make adjustments and otherwise do all that is possible within these constraints.

Question: Do you believe that most research should be done in house or should it be performed on an extramural basis?

Answer: A balanced research program should contain both an in-house component and an extramural component. A decision on whether a particular research project will be conducted in house or extramurally is based on several factors. The following questions embody some of the factors that we normally consider in making such a decision:

- What is the availability of appropriately trained staff?
- What is the need for facilities and equipment?
- Is the research need recurring or one time only?

In summary, we will conduct a research project either in-house or extramurally depending on which approach will achieve results more cost-effectively.

Question: Please state for the record how much of the FY 1985 research budget will be conducted in house and how much will be completed on an extramural basis. Also, indicate whether the extramural portion is a real increase over FY 1984 levels.

Answer: In-house and extramural resources are shown in the table below.

Total Research Resources
(dollars in thousands)

	FY 1984	FY 1985	Change
In House	95,844.0	105,664.7	+9,820.7
Extramural	148,464.8	172,384.0	+23,919.2
Total	244,308.8	278,048.7	+33,739.9

Question: Would it be possible for you to specify how the quality of work is measured for research grants and co-operative agreements?

Answer: Peer review panels conduct rigorous peer reviews of the scientific quality of grant proposals and a similarly rigorous review of progress if the grantee requests a continuation. Ultimately, the presentation of a report on the results of the research for publication in peer-reviewed journals is required.

Question: Does EPA have a career ladder for in-house scientists?

Answer: Yes, there is a career ladder for in-house scientists. The career ladder, however is not EPA's own system, but is the Office of Personnel Management's (OPM). Under this a position is assigned a grade and promotion potential based on the duties involved and the level at which these duties could be performed. This system may be used for all federal activities. Different jobs have different grade ranges and career ladders.

Generally, the scientific positions range from entry level (usually a General Schedule (GS) 5,7 or 9) to a GS 12 or 13. The top of the ladder depends on the duties of the particular position. For example, if the position involves the evaluation of data and the making of policy recommendations, it will support a higher grade than one which requires the carrying out of experiments and the publishing of results.

Question: Are salaries competitive with the private sector?

Answer: OPM determines the salary scales for all federal employees. Salaries are set to be competitive with comparable jobs in the private sector. In general, there is not a special pay scale for scientists. However, regulations do allow for the paying of certain types of individuals, for example hard to find skills and Medical Officers, at advanced salary rates to be competitive with the private industry.

Question: I have been told that acid rain research was first conducted in the long-range research program. What area is under consideration by the program at the present time?

Answer: The Exploratory Research program solicits grant proposals from all fields of environmental science. Within this program, we are especially examining biological monitoring and the impact of biotechnology on the environment.

Question: Do you consider exploring more fully biogenetic research?

Answer: Yes. The Office of Research and Development has been following developments in the biotechnology field very closely since 1977. For the last several years, we have sponsored and conducted research in biotechnology to prepare us to assist the

Agency's regulatory programs. In fiscal year 1984, we are spending about $620 thousand in this general area. Our fiscal year 1985 budget requests $1.38 million. During this past year, we have been working with the Office of Pesticides and Toxic Substances to identify jointly research and development needs and plan a research program which we would implement in concert with the Agency's decisions to regulate substances produced by biotechnological processes. This research plan will be peer reviewed in April 1984 and we will use the results of this to make decisions on how to proceed. In the meantime, we are surveying our laboratories to determine the status of our training and facilities needs in this research area.

Question: Your FY 1985 request to OMB for research and development totalled $335 million, 20% over the level presented to the Congress. A preliminary examination of the materials the Committee has on your September request show that the largest reduction request was taken in the energy area. Could you specify what efforts will not be undertaken as a result of this reduction?

Answer: The major difference between our initial request for energy research and the President's Congressional Budget Request lies in the area of acid deposition and is reflected in the following list of adjustments and deletions. It should be noted that several of these items have been funded through alternative funding sources.

-$1.0 million for research on forests and soils.

-$2.5 million for a lake liming demonstration. These funds were requested by the Fish and Wildlife Service and they will conduct the liming program.

-$4.1 million for the National Lake Survey. Funds in the amount of $5.5 million have been requested in an FY 1984 supplemental request.

-$2 million for continuous emissions monitoring.

-$1.1 million to supplement research on atmospheric models.

-$1.6 million to support a rapid data assessment and processing system.

-$1.1 million for short-term policy development.

-$1.8 million for expansion of cost/benefit research.

-$0.9 million to establish new materials exposure field sites.

-$0.5 million to expand wet deposition monitoring.

-$5.1 million to enhance dry deposition monitoring in conjunction with the National Trends Network.

-$5.0 million to establish a mountain top cloud chemistry network.

-$1.3 million to support a comprehensive field experiment.

+$1.0 million for ambient monitoring.

Question: Your materials also show a substantial reduction in the air and hazardous waste media. Are you able to specify what impact those reductions would have?

Answer: The reductions to the research and development portion of the air program occur primarily in the Hazardous Air Pollutant (HAP) and Gases and Particles (GAP) programs. In HAP, the reduction occurs in the elimination of an indoor air research program where EPA lacks regulatory authority in this area. In GAP, the reduction occurs in health effects research and in regional air modeling programs where sufficient resources were already available. Between 1984 and 1985, there is an overall increase of $3 million in air research.

The reduction to the research and development portion of the hazardous waste program occurs primarily in the engineering program where the resources provided for land disposal and alternative treatment technologies were deemed sufficient given the status of RCRA regulations and industrial efforts in these areas.

RESEARCH AND DEVELOPMENT

Question: Risk assessment is a phrase that we have heard often in conversations with the Agency over the past year. I understand that there is an increase in the 1985 budget for research in this area.

Could you provide a basic explanation of the aims of risk assessment research and the role of risk assessment in the Agency's media programs.

Answer: Much of the scientific work at the Agency relates to risk assessment, i.e., understanding toxicity mechanisms, characterization of hazards, assessment of the degree of exposure, and estimation of the degree of risk. These risk assessments are used by each of the Agency's media programs for setting priorities, establishing standards and the like.

The Office of Research and Development performs three kinds of risk assessment activities. First, the office performs risk assessments on specific chemicals which are used in the Agency's regulatory processes. For example, in 1984 and 1985 ORD is completing a series of risk assessments on hazardous air pollutants which will be used in setting national emission standards. Second, the office develops methods for carrying out risk assessments with the intent to standarize and enhance the assessment process. For example, ORD is revising the guidelines for performing risk assessments in six areas -- cancer, mutagenicity, reproductive effects (including teratology), exposure, systemic toxicants and chemical mixtures. Third, the office develops scientific and technical tools which can be used in performing risk assessments. For example, ORD is developing models which allow researchers to estimate the risk of a chemical to man by extrapolating from animal experiments.

Question: The 1985 research and development budget shows a $3.8 million increase in health effects research and a $383,000 decline in environmental effects research.

I am interested in whether these figures reflect a new policy within the R&D program to emphasize health rather than environmental impacts.

Answer: One of our leading priorities in FY 1985 is to improve the scientific basis for estimating the human health consequences of environmental pollution. This is reflected in an increase of $4.8 million in our health and risk assessment programs over FY 1984 resource levels. However, this does not represent a shift in policy to de-emphasize research on environmental effects. The decrease of $383,000 referred to, less than 1% of the $46.5 million of the FY 1985 level, is deceptive. It does not reflect a $10 million increase in the environmental effects portion of Acid Deposition Research.

Question: Support to control technology research demonstration projects was reduced in the past two years based on the assumption the industry should assume responsibility for this area of research. Does the control technology R&D increase in the 1985 budget indicate that this was not the Agency's experience after all?

Answer: No, EPA still feels that industry should play the major role in the development of control technologies. EPA has a major role in the evaluation and assessment of control technologies to provide information needed for the regulatory development and in the permit issuance process. EPA will be involved in the development of control technologies only when industry is not adequately addressing the problem. Such is the case with the Limestone Injection Multistage Burner (LIMB) which has been developed through EPA's research program.

Question: The Agency has established a list of priority activities for 1985 to identify the areas in need of the most resources to achieve the Agency's program objectives.

How was the R&D budget modified from 1984 to make it compatible with the new 1985 priorities? What effect do the changing priorities have on the R&D offices's ability to sustain long term research?

Answer: The priorities for the research program are developed to respond to the Agency's list of priority activities. Research priorities for a given area are established through a communication and negotiation process with the appropriate client offices. The primary vehicles for fostering this communication are research committees, which have as members managers from the Office of Research and Development (ORD), the regulatory program office, and regional offices. Once each of the committees has expressed its priorities, ORD management must carefully weigh the often competing demands for resources to determine overall research priorities.

This year, the leading priorities of the research program are the following:

° Improve understanding of the causes and effects of acid precipitation.

° Better understand the nature and effects of hazardous and toxic chemicals.

° Strengthen human health and risk assessment research to improve the scientific basis for estimating the human health consequences of exposure to environmental pollution.

° Strengthen engineering research and technology assessment support to regulatory activities in order to determine improved control solutions to complex environmental problems.

° Ensure that all data generated and used by EPA is of acceptable accuracy and reliability.

The budget request for FY 1985 shows growth in these priority areas compared to FY 1984.

ORD is able to maintain a strong and viable long term research program while remaining responsive to changing priorities. It is able to do this in two ways:

° Through the research committees, ORD and its clients reach agreement on what constitutes the strategic, long term research needs facing the Agency. This enables ORD to plan portions of its research program to respond to these long-term issues.

° ORD maintains a specialized exploratory research grants and centers program which, by its mandate, concentrates solely on long term anticipatory and exploratory research. Funding for this program is retained in a separate budget category so that resources cannot be re-directed to meet more short term needs.

ENFORCEMENT RESOURCES

Question: I am encouraged by the Administration's request for a 28 percent increase in funding for enforcement Agencywide and a 17 percent increase in personnel.

The September submission to the Office of Management and Budget proposed total funding for enforcement of $182 million, 18 percent over the current request. What proposed activities or level of activity will be sacrificed by the 18 percent cut?

Answer: In FY 1985, we are proposing enforcement increases in all media. By media, primary reductions to September increases are as follows:

> Superfund (-$14,655.3) This reduction is due to a reassessment of workload for dioxin-contaminated sites.
>
> Water (-$4,273.1) This program will conduct fewer enforcement actions than originally planned to support the National Municipal Policy. However, the proposed level is sufficient to implement the policy at this early stage in its development.
>
> Interdisciplinary (-$3,779.2) Most of this reduction reflects a reassessment of intramural costs such as travel, supplies, equipment, and other administrative expenses. Additionally, the President's Budget does not provide increased support for multi-media enforcement cases, consent decree tracking, or development of Regional in-house capability to conduct evidence audits. It does, however, provide funds for increases in media-specific litigation (especially in RCRA), as well as an initiative for crosscutting policy development, analysis, and tracking systems for enforcement and compliance monitoring.
>
> Air (-$3,139.3) This program was decreased from the OMB Submission to accommodate a shift from contractor support for Stationary Source inspections to inspections conducted by EPA. This shift is due, in part, to court rulings limiting the use of contractors for inspection purposes.
>
> Toxics (-$2,340.8) While the President's Budget does not provide full increases for Section 4 Test Data Audits, Section 5 PMN Inspections, or Section 8 Information Collection Rules, each of these areas increase over FY 1984. There are also reductions to the State Cooperative Enforcement Grant program, though it is not brought below the FY 1984 level.

Pesticides (-$1,470.7) Funding for Enforcement and Certification and Training Grant programs has been held to the FY 1984 level.

Drinking Water (-$328.1) The program will issue an increased number of permits in the Underground Injection Control program, though fewer than originally planned.

Hazardous Waste (-$278.6) EPA will conduct fewer oversight inspections to evaluate State enforcement efforts. However, approximately 900 inspections will be conducted, which we feel is adequate to ensure quality State enforcement programs.

Question: Will the increases in personnel for enforcement be achieved by transferring staff from other functions within the Agency, or will they be achieved by adding new Federal personnel?

Answer: In FY 1985, there will be 352 additional FTE in enforcement, which translates into approximately the same number of new Federal positions to be filled in that year. These positions will be filled with the most qualified applicants, who may be from either inside or outside of EPA.

Question: The largest increase in enforcement resources requested for 1985 is for the Superfund program, and the second largest increase is in the water quality area. Could you please summarize for the committee the anticipated effect of these increases?

Answer: The Superfund enforcement increase reflects the importance of the enforcement component of the program in addressing uncontrolled waste sites.

This increase will enable us to conduct site assessments needed to support additional negotiations with private parties in order to ensure the success of our efforts to compel private party cleanup and recover Federal funds. Cost recovery emphasis will be on the more costly remedial actions.

Specifically, these enforcement resources will enable the Superfund program to provide additional legal and technical support to increase the following:

o detailed site analysis in support of negotiations from 25 to 46;

- civil cases filed with the Department of Justice to compel private party action from 8 to 11;
- cost recovery cases to recover monies expended for Federally financed actions from 34 to 48; and
- ongoing cases filed with the Department of Justice from 55 to 77.

The increase to the water enforcement program in 1985 will support three major activities:

- substantial elimination of the backlog of expired major permits to be issued by EPA in unapproved states;
- development of compliance schedules for POTWS in unapproved States in support of the National Municipal Policy; and
- conduct of appropriate enforcement measures to assure implementation of the pretreatment program in States or cities without approved programs or where approved programs have not been implemented.

OFFICE OF ENFORCEMENT AND COMPLIANCE MONITORING - ENFORCEMENT ACTIVITY PROJECTIONS

Question: Projected second quarter fiscal year 1984 administrative actions are double the first quarter actions for the Environmental Protection Agency (EPA), and 40 times higher for the States.

What is the basis for these projections? What do you project for the rest of the year?

Answer: The Deputy Administrator had requested each Regional Administrator to provide him with their estimates of projected administrative orders for EPA and the States in the second quarter. These projections were made by each Region after evaluating current compliance and violations.

We do not have comparable projections from the Regions for the end of the year but we feel it is safe to say that the same or greater level of activity can be expected for the second half as the first.

The states are not now required to report to EPA by quarter on their administrative enforcement activity. Because of the difficulty in obtaining first quarter administrative state data, the first quarter data is incomplete, and projections for the second quarter are not directly comparable from one State to another. We will be working closely with our State counterparts to develop improved reporting mechanisms so that a total national enforcement picture can be accurately portrayed.

OFFICE OF ENFORCEMENT AND COMPLIANCE MONITORING - CASE REFERRALS

Question: Summary statistics provided to the Committee show that the number of cases referred to the Department of Justice for the first quarter of this year are slightly below the comparable period last year. While I realize that the number of referrals is not an accurate measure of enforcement activity levels, it is one of the few measures we have.

Do you expect the number of referrals to increase in the latter part of this year?

Answer: We do expect the number of referrals to increase in the latter part of this year. As the Committee indicates, our statistics show that 48 case referrals were made to the Department of Justice in the first quarter of FY 1984 which is slightly below the 50 referrals in the first quarter of FY 1983. Our expectations for case referrals by the end of the year are based upon Regional projections that they will forward an additional 82 referrals to Headquarters by the close of the second quarter. We appreciate the Committee's recognition in this question, of the limitations on relying on specific numbers of case referrals as good measure of enforcement activity levels. We do take these levels seriously however, as an indication of our willingness to use our most forceful enforcement tools and are closely monitoring this activity.

ASBESTOS-IN-SCHOOLS PROGRAM

Several members of this committee are interested in providing the Environmental Protection Agency with the authority to administer an asbestos abatement and remedial section program for public and private schools. Setting aside for the moment the question of whether you agree or disagree with the notion of relocating the existing program, please provide the following information:

Question: If the asbestos program were transferred as it now exists, what level of funding would the Agency require for fiscal year 1985, and if it is possible to estimate this, what amount for fiscal year 1986?

Answer: We assume you are asking about the Department of Education (DoED) loan and grant program, which, under the Asbestos Hazard Detection and Control Act of 1980, authorized funds for asbestos abatement in schools.

EPA has no expertise in the area of establishing a loans and grants program for asbestos abatement in schools.

We are therefore unable to estimate the level of funding that would be required to establish a funding program in 1985 and 1986.

Question: If the asbestos program were transferred, in which program office should it be situated (e.g., OTS, OSWER, etc.) and what implementing legislation should be amended (e.g., CERCLA, TSCA, RCRA, etc.)?

Answer: Because we have no experience operating an Asbestos Abatement funding program, we are unable to state in which program office the program should be located or the most suitable statute for implementing such legislation.

Question: If the asbestos program were transferred, how rapidly could the Agency establish a program to inspect classrooms and determine, on a case-by-case basis, what remedial action is appropriate (e.g., removal, encapsulation, etc.)? What is the estimated cost of such a program and what personnel level would be required?

Answer: Again, EPA cannot estimate the resouces or timeframes required to establish this program.

However, our approach to the funding program would be different than that outlined in the question. It would basically follow an approach of this sort.

Schools would complete an application.

A series of criteria would be used to select those buildings (sites) which were to be further evaluated.

Again, because we have no experience with a loan program of this type, we do not know what screening criteria would be used.

We estimate that the technical review of each site to determine the appropriate corrective action would require 2-5 working days (not including travel or review of the application).

It is important to note that there would not be enough qualified site inspectors to operate a program of this sort. An intensive training program would be required.

Question: If the asbestos program were transferred, could it be funded in whole or part by a fee of those members of the industry which produced asbestos and asbestos products during the time that they were installed in schools? What fee level could be sustained without creating dislocation in the industry?

Answer: Most of the major manufacturers of asbestos and asbestos-containing products that manufactured the materials installed in buildings during the 1940's-1960's no longer manufacture these products. In fact, some of these companies have filed for bankruptcy. Therefore, we are doubtful that past manufacturers of these products could fund this program.

Current manufacturers of asbestos products could be charged a fee, in conjunction with a set of rules currently under development by EPA, which will "phase down" the amount of asbestos used in the U. S. over a period of time. However, this would be charging a fee to asbestos manufacturers that were not responsible for the products installed during that time period.

RESPONSE TO LETTER OF FEBRUARY 27, 1984 AND QUESTIONS ON ASBESTOS IN SCHOOLS

The following questions and answers were prepared as a tentative response to issues raised on the Asbestos-in-Schools program in a February 27, 1984 letter from the Committee on Environment and Public Works. A formal reply will be transmitted to the Committee at a later date.

Question: Provide information on the number of schools and other public buildings in which asbestos has been installed.

Answer: The Agency's only estimate of this was used in the May 27, 1982 Asbestos-In-Schools Rule. We estimated, based on the voluntary Technical Assistance Program (TAP) in two regions, that 14,000 schools nationwide have sprayed on friable asbestos-containing materials. (A greater number of schools probably have friable pipe and boiler insulation.)

The Agency is currently conducting two surveys which will help us to gain reliable estimates of the extent to which friable asbestos-containing materials exist in schools and public buildings. The results of these surveys are due in May and June respectively.

Question: Provide information on the number of schools and other public buildings in which some remedial action should be taken to abate or eliminate the health threat posed by asbestos.

Answer: Again, EPA has no reliable information in this regard.

We expect that the surveys mentioned in the above response will provide more reliable information.

Question: What is the approximate cost, both in the aggregate and on the average, of such remedial action?

Answer: Our current estimates are that removal costs range between $2 and $13/sq. ft. (does not include re-insulation costs). Initial costs associated with enclosure are usually lower. In some cases, no action is needed in the short term as long as the situation is carefully monitored for any change in the condition of the asbestos.

Removal is not the only option, but may be the least expensive option in the long term. (The attached charts provide comparisons of control methods.) We currently have no aggregate cost data for schools or buildings. The surveys referred to above will provide additional information.

Question: What is the ability of State and local school officials to both recognize an asbestos problem and determine the appropriate remedial action?

Answer: Our regional experience shows a wide variety of State programs to deal with asbestos-in-buildings. Some states have excellent training programs and are quite knowledgeable about asbestos identification and control. Technical assistance is provided at the State and local level (generally through the health and education departments). Other states have devoted no resources to the problem and rely on the EPA Regional Asbestos Coordinator for all technical assistance.

Question: Provide the status of the EPA regulatory and enforcement programs dealing with the inspection of schools and the notification of parents.

Answer: From June 28, 1983, the date on which the asbestos in schools rule became enforceable, through early March, 1984, EPA and its contractor completed inspections of 450 Local Education Agencies (LEAs), with a violation rate of 52%. To date EPA has issued 52 notices of noncompliance. These violations and notices of noncompliance include some cases that involve a failure to notify parents of the presence of friable asbestos-containing material in the schools.

For 1984 EPA has supplemented its compliance inspection program with a $500,000 contract. EPA and the contractors jointly will conduct 814 inspections of LEAs during 1984.

EPA's 1985 budget proposal represents an expansion of its compliance and enforcement program for the asbestos in schools rule by increasing its Regional compliance staff by 21 positions and expanding its contract by $500,000 to a total of $1 million. These resources will permit EPA and our contractor to conduct about 1,525 LEA inspections. In the two-year compliance monitoring program for this rule, EPA plans to inspect LEAs that educate approximately 50% of American school children. EPA will divide its inspectional resources between inspecting the larger LEAs, where noncompliance will affect many students, and responding to complaints of noncompliance from parents and school employees.

EPA is looking at a broad range of regulatory approaches to addressing the abatement issue. The Agency will convene a public meeting to solicit input from experts in this area and encourage the public to provide EPA with data and written views on how EPA should modify its asbestos-in-schools program.

Question: Provide the number of schools which are estimated to be in violation of EPA regulations and the reasons for these violations.

Answer: EPA does not have an estimate on the number of individual schools, nor the number of Local Education Agencies, that may not be in compliance with the asbestos in schools rule. However, as of March 2, 1984, EPA had conducted 450 compliance monitoring inspections of LEAs, and of this number EPA has found 52% to be in violation.

Of the LEAs in noncompliance, the following violations were found:

50% had either conducted no inspections or insufficient inspections.

66% had either not notified or had inadequately notified parents.

60% had either not warned or had improperly warned school employees of identified asbestos hazards.

A significant reason for noncompliance is that LEAs are reluctant to notify parents and employees of the results of inspections that identify the presence of friable materials in schools. The LEA would then have to address the concerns of those parents with children in schools with asbestos-containing materials.

Table 2 Comparison of Asbestos Control Alternatives

Method	Advantages	Disadvantages	Appropriate applications	Inappropriate applications	General comments
Removal	Eliminates asbestos source Eliminates need for special operations and maintenance program	Replacement with substitute material may be necessary Porous surfaces also may require encapsulation Improper removal may raise fiber levels	Always	Never	Containment barriers needed Worker protection required Wet removal is required for all types of asbestos (amosite will not adsorb water or water with traditional wetting agents) Disposal may be a problem in some areas Unusual circumstances, complex surfaces, and the presence of utilities may require special removal techniques
Enclosure	Reduces exposure in the area outside the enclosure Initial costs may be lower than removal unless utilities need relocating or major changes Usually does not require replacement of material	Asbestos source remains and must be removed eventually Fiber release continues behind enclosure Special operations program required to control access to enclosure for maintenance and renovation Periodic reinspection required to check for damage Repair of damaged enclosure necessary Fibers released in dry form during construction of enclosure Long-term costs could be higher than removal	When materials need to be isolated from building occupants (e.g., exposed pipe) Disturbance or entry into enclosed area unlikely	Damaged or deteriorating materials causing rapid fiber release Water damage evident Damage or entry into enclosure likely Ceiling to be enclosed is low	Containment barriers needed Use of tools with HEPA-filtered vacuum attachments advisable Worker protection needed

Table 2. (continued)

Method	Advantages	Disadvantages	Appropriate applications	Inappropriate applications	General comments
Encapsulation	Reduces asbestos fiber release from material Initial costs may be lower than removal Does not require replacement of material	Asbestos source remains and must be removed later If material is not in good condition, sealant may cause material to delaminate Periodic reinspection required to check for damage or deterioration Repair of damaged or deteriorating encapsulated surface required Encapsulated surface is difficult to remove and may require dry techniques for eventual removal Long-term costs may be higher than removal	Material still retains bonding integrity Damage to material not likely Material not highly accessible Material granular, cementitious	Material does not adhere well to substrate Material is deteriorating or damaged, or damage is likely Water damage is evident Material is fibrous, fluffy	Containment barriers needed Worker protection needed Airless sprayers should be used Damaged pipe insulation may be taped but not sprayed Previously encapsulated materials may have to be re-encapsulated
Special operations and maintenance program plus periodic reinspection	Lowest initial cost of any alternative	Asbestos source remains Special operations program required to prevent damage of material during maintenance or renovation Periodic reinspection required to assess material condition and potential for erosion or disturbance	As a temporary measure until another alternative is selected Material in good condition and has low potential for erosion or disturbance Material is nonfriable	Material not in good condition or has high potential for erosion or disturbance	Special building cleaning practices are essential

R&D BUDGET - ENVIRONMENTAL PROCESSES

Question: While the whole budget reflects significant increases over the 1984 budget, and there is a corresponding increase in health effects research, there is a rather sizeable decrease in research funding for "environmental processes and effects." Given the mandate of the agency for Environmental protection, how do you account for this decrease at a time when other research areas are getting increased funding?

Answer: The overall reduction in the environmental processes and effects research is rather small as this area decreases by only $400 thousand. It should also be noted that a significant portion of the $19 million increase in Acid Rain involves environmental processes research.

The $400 thousand decrease incorporates an increase of $1.7 million in the Salaries and Expenses Appropriation (S&E), a decrease of $1.8 million in the Research and Development Appropriation (R&D) and a $400 thousand decrease in Superfund. The increase in S&E resources primarily reflects support for cooperative research with China and a redirection of R&D resources to S&E resources to support increased costs associated with laboratory operations. The decrease in R&D resources primarily reflects the completion of efforts in several areas including:

- the first phase of the regional particulate modeling work,
- emissions studies on in-use, heavy-duty diesel vehicles,
- the majority of the research in support of waste evaluation protocols for ocean dumping, and
- site and situation assessment manuals in the Superfund area.

In addition, the decrease reflects the redirection of R&D resources to S&E resources to support laboratory operations.

NPDES PERMIT PROGRAM

In its December 1983 report "Wastewater Dischargers Are Not Complying with EPA Pollution Control Permits" (GAO/RCED-84-53, Dec. 2, 1983), GAO discussed various problems the National Pollutant Discharge Elimination System (NPDES) permit program is experiencing that reduces its potential for cleaning up the nation's waters.

Often, problems were attributed to insufficient resources at the State and EPA Regional office levels.

Question: Could you quantify how much the increase in resources for NPDES permit and enforcement activities are likely to improve permit issuance and noncompliance problems in those states where EPA administers the NPDES program?

Answer: Permit Activity - Based on the increase in resources for 1984 and 1985, we hope to eliminate EPA's major permit backlog by the end of this two year period. In terms of outputs, we should issue approximately 1,330 major permits during 1984 and 1985 (830 major industrial and 500 major municipal permits). This averages to about 660 major permits per year which compares to some 160 majors issued in 1982 and approximately 500 majors issued in 1983. Although some minor permits will be issued, our 1985 budget includes no resources for reducing the backlog of minor permits. It is anticipated that minor permitting will be included in future year budgets. Additionally, work will continue during 1985 and beyond on resolving municipal waivers and industrial variances. Approximately half of the 1985 permit program increase is directed at marine discharge waivers decisions [Section 301(h)] for Publicly Owned Treatment Works. We estimate that variance workload will increase in 1985 and 1986.

It should be noted that in addition to permit issuance, the permit program budget includes two other major activities: pretreatment program implementation and NPDES state permit assistance and overview. Some of the 1985 resource increase is directed to both of these areas. Pretreatment resources for 1985 average less then 4 workyears per Region including Federal enforcement resources. State permit assistance and overview resources for 1985 average slightly more than 1 workyear per NPDES State.

Enforcement Activity - The increase in 1985 resources is solely for implementation of the National Municipal Policy. It is very difficult to quantify how much the increase in enforcement resources will improve municipal compliance. In FY 1985, Administrative Orders will be issued to the following facilities:

1. the remainder of noncomplying unfunded (i.e., has not received a P.L. 92-500 construction grant) major POTWs that did not receive such orders during 1984,
2. all noncomplying funded minor POTWs, and
3. a portion of minor POTWs that have completed construction with a P.L. 92-500 grant but are noncomplying with NPDES permit limitations and have a significant water quality impact.

Major POTWs that were funded, have completed the treatment facilities and are not complying with permit limitations, will receive Administrative Orders during 1984. Major POTWs are defined as municipal sewage treatment facilities that serve more than 10,000 people and/or treat more than a million gallons per day.

GROUND-WATER PROTECTION

Your January 1984 draft ground-water protection strategy places primary responsibility for ground-water protection on the States. Consequently you are proposing to set aside funds from current EPA grants to help States develop their own ground-water protection capabilities, but oppose using the set aside funds to cover the costs of actual program operations such as aquifer mapping, monitoring, and issuing permits.

Question: Why has EPA decided not to allow States to use the set aside funds to operate their ground-water programs?

Answer: EPA currently provides general water program support grants to States under Sections 106 and 205(j) of the Clean Water Act (CWA). The Section 106 grant is used to support a wide range of planning and implementation activities, including planning or implementation of ground-water protection programs originating at the Federal or State level. The 205(j) grant supports only water quality planning and management activities; these funds may be used to support planning of ground-water protection programs originated at the Federal and State level.

EPA also provides program specific grants to support Federal programs delegated to States (e.g., the Section 3011 grant under the Resource Conservation And Recovery Act and the Underground Injection Control grant under Section 1443(b) of the Safe Drinking Water Act). Use of these funds has been limited to planning or implementation activities specifically associated with the particular program.

The draft Ground-Water Protection Strategy proposes to adjust the current system in order to focus available funds on State ground-water program development activities. EPA is considering several approaches to accomplish this objective and expects to finalize plans shortly. In general terms, EPA would encourage, rather than simply allow, States to direct a portion of the general water program support grants (i.e., under Sections 106 and 205(j)) to ground-water program development. Second, EPA would encourage States to use a portion of program specific grants for overall ground-water program development, rather than limiting these grants to development and implementation of a single program. The Agency is allowing program specific grant funds to be used to support overall program development in order to ensure that State ground-water programs are implemented within a clear, overall State management framwork designed to prevent conflicts and inconsistencies among programs over the long-term. The great majority of program specific grants (i.e., those funds not used to develop an overall State ground-water management strategy) would continue to be used to support program specific planning and implementation activities.

EPA is not proposing to allow existing program specific grants to be used to support ongoing implementation of programs originated at the State level. Such programs are most properly supported by State appropriations or by revenue systems authorized by State legislatures. However, EPA would not prohibit use of Section 106 funds for this purpose.

The Agency is also considering minor changes to the definition and scope of ground-water "program development." For example, EPA may expand the definition of program development to include activities to assess the ground-water resource (e.g., aquifer mapping, selected monitoring) if these activities are presented in a broad context indicating how such activities fit into an overall State ground-water strategy. Evaluations of past EPA funded ground-water protection projects under Section 208 of the CWA indicate that the likelihood of lasting improvements to ground-water protection programs is low if resource assessment activities are conducted without establishing a broad management framework which defines the intended use of the resource assessment date.

Question: Has EPA estimated how much money the States will need to develop satisfactory ground-water programs and how much will be set aside from the existing program grants?

Answer: EPA expects the level of funds needed to establish satisfactory State ground-water protection programs to vary in each State in relation to the extent of the ground-water pollution problems and the extent of existing State ground-water protection program. The Agency has not estimated the overall national resource need on an annual or long-term basis. The Agency is now considering whether it is necessary to estimate the level of resources States might use for this purpose as opposed to providing that EPA Regional Administrators and States make determinations concerning needed levels of resources on a State-by-State basis.

PRETREATMENT PROGRAM

Question: Mr. Ruckelshaus, I have been concerned for some time that the Pretreatment Program is under funded and under staffed. I am pleased to see that the recent appropriation request for EPA would bring the total staff up to about 28 in the Regions, but I fear that still is too few people to implement this vital program.

In preparation for this hearing I requested answers to a number of specific questions about anticipated workload and available staffing. The responses are extremely disturbing.

I am going to insert this material in the record at this point, but I want to highlight two things that these answers reveal.

First, the Agency has no idea how many baseline monitoring reports (BMR's) have been submitted by industrial facilities because there has been no one to count them, much less review them. As a result, EPA does not know

- o Whether all electroplating and iron and steel facilities submitted BMR's as required.
- o Whether these facilities are on a schedule to meet their pretreatment requirements that fall due beginning next month, or
- o How many enforcement actions are going to be required.

Second, the pretreatment porogram faces huge output requirements between now and the end of fiscal year 1985, including

- o Review and approval of 1,404 local pretreatment programs, up to 400 removal credit applications, probably large numbers of administrative orders, and a tremendous amount of training and outreach to assist States and localities.

There is a great deal more, but I will not go on. Frankly, it appears to me that the resources you are asking for are far from enough to put this vital program on track.

I would like to comment on that, and I would like to know whether additional resources, if you had them, would enable EPA to improve implementation of the pretreatment program?

Answer: Yes. Part of the 1985 budget increase for the OW enforcement program (10 workyears out of the total increase of 56 workyears) is for pretreatment program implementation. The increase will result in an average of slightly less then four workyears per Region for 1985. The resources are primarily for local pretreatment program approvals and a minimal amount of enforcement activity.

Total resource needs for EPA to a large extent depend on our success in getting State and local programs approved. Although our goal is to get all local programs submitted by the end of 1984, it does not appear likely this will be the case. Therefore, one of the pretreatment program priorities for 1985 will be to initiate enforcement actions to get local programs submitted and approved as soon as possible.

A parallel priority in 1985 will be to ensure electroplaters comply with the categorical standard deadlines of April, 1984 for nonintegrated facilities and June 1984 for integrated facilities. It will also be extremely important to establish and maintain a data system or inventory of indirect industrial dischargers to track status of compliance.

Other activities (removal credit determinations, categorical standard determinations, net/gross determinations, etc.) will require resources on an as needed basis. Resource needs for reviewing all baseline monitoring reports are large. The resource implications for these activities were supplied in responses to earlier questions.

Finally, it is important for EPA to establish a coordination/overview role in dealing with approved State and local programs. Proper coordination and overview of programs in their infancy can result in greatly reduced resource needs in the future.

The magnitude of the pretreatment program over the next few years is such that it can match resource levels of the NPDES program. However, a large increase over such a short period of time would result in inefficiency and a major rollercoaster effect on Regional resources. Therefore, although additional resources would improve EPA's ability to implement the pretreatment program, such an increase must be factored into a longer term pretreatment strategy. EPA is now in the process of developing such a pretreatment strategy.

NPDES PERMITS

The appropriations request states that EPA will issue all "major" NPDES permits by the end of FY 1985. That is good news, but so-called "minor" permits account for a good deal of pollution, too.

Question: How many resources are budgeted for issuance of minor permits?

Answer: There are no resources budgeted for issuance of minor permits.

Question: Second, I wonder whether your commitment to issue all major permits takes into account the pressure to resolve the many pending and expected requests for permit modifications that encumber many permits.

I previously asked for information on this point, which I will insert in the record. The response showed that 101 work years of staff effort are budgeted against an estimated 314 work years of request for modifications. This figure does not include requests for modifications to reflect changes in the secondary treatment defintion, which EPA has estimated will run several thousand.

Will the pressure to examine and resolve this hugh backlog of modifications requests pull resources away from permit issuance?

Answer: I believe the information we supplied you earlier indicated that 50.5 workyears was budgeted for variances/waiver requests, not 101. You are correct that the estimate does not include requests for modifications to reflect changes in the secondary treatment definition.

Although the 50.5 available workyears is much less than the identified need for variance/waiver requests determinations, resources for permit issuance will not be used to supplement this activity. Variance requests are processed as permits are reissued. The resources for variance determinations are used in concert with permit issuance resources. The estimate of 314 workyears for variance determinations includes resources for processing all requests including those carried over from past years. Most of the variances requests from prior years are being held until the appropriate permit is reissued.

SUPERFUND - HAZARDOUS SUBSTANCE RESPONSE

Question: EPA has relied heavily on contractors to support the Superfund program because it is legislatively due to terminate in 1985. EPA's policy is that it does not wish to hire and fire Federal employees after such a short period. Would EPA make greater use of Federal employees if Superfund was extended?

Answer: An Agency task force has been established to prepare for Superfund reauthorization. A special work group under this task force is currently analyzing the resource implications of various scenarios. Ultimately, expanded use of federal employees for the Superfund program will depend on resource allocations from Congress.

Question: Why is EPA hiring about 150 full-time dedicated contractor employees to support the Emergency Response units, technial assistance teams? This program is a long-term federal responsibility which will not end with Superfund. Is it cost-effective to hire full-time, long-term employees through a contractor? What is the cost to EPA for these contractor employees and for the Federal employees who comprise the other 50 percent of the technical assistance team program?

Answer: Since 1979, before the passage of Superfund, the Agency has used contractors to provide technical support for its emergency response activities. The use of contractors, rather than Federal employees, has two principal advantages. First, the level of work required from year to year may vary. The Agency can buy what it needs through a contract, rather than having too many or not enough of the right kind of Federal employees on board. Secondly, it is much easier to move contractors around the country to deal with a specific problem, such as the dioxin contamination in Missouri, than it would be to relocate Federal employees. The cost comparison between a contract person and a Federal employee is favorable. The average cost for a Technical Assistance Team (TAT) contract employee and for an EPA employee are as follows:

TAT = \$51,600/yr
EPA = \$42,800/yr

Direct cost comparison of contractor and Federal personnel is difficult and may be misleading. As indicated earlier, the use of contractor support provides a degree of flexibility and expertise not otherwise available. TAT personnel costs shown above include direct labor charges and factors for corporate management and profit. The Federal Personnel cost shown assumes a GS-12, step 1 salary level and includes direct salary and benefits a factor for unfunded retirement costs.

Question: Has EPA developed standard procedures for evaluating hazardous waste sites? Are there wide variations in the cost of preparing site cleanup plans? Has EPA developed general cost criteria for site evaluation in order to determine the reasonableness of contractor cost to prepare site cleanup plans?

Answer: A model Statement of Work (SOW) for remedial investigations and feasibility studies was issued on March 1, 1983, as guidance in preparing site specific SOW's. More detailed and extensive draft guidance documents are currently under review, with final release anticipated by the summer of 1984. A guidance document on the data elements required for a Record of Decision on Remedial Action Alternative Selection is currently under development and a draft is expected to be available for review in May 1984.

Although the basic elements of Remedial Investigations (RI) and Feasibility Studies (FS) generally remain the same, the complexity of site-specific characteristics can greatly influence the cost of those elements. The cost of RI/FS range from $100,000 to $3.9 million for a given site. The budget assumes a $700,000 average cost.

There is little historical information on hazardous waste site remedial actions. Cost curves have been developed based on the experience so far in the remedial and enforcement programs. In addition, a cost procedures manual and cost compendium have been developed to provide a basis for estimating what must be done given the general situation at a site.

Question: OMB Circular A-76, requires that contractors be continuously monitored to ensure that costs are reasonable and service is satisfactory. Can you provide us with EPA's procedures to meet this requirement? Can you provide a list of Superfund contractors and criteria used in evaluating the reasonableness of costs?

Answer: EPA monitors the performance of contractors services in several ways:

1. Through activity and cost reports required by the terms of the contract.

2. Through reviews of invoices.

3. Through audits performed by the Inspector General.

4. Through regularly scheduled meetings of a contract performance evaluation review board.

Following is a list of major Superfund contracts and criteria used in evaluating the reasonableness of costs.

Technical Assistance Team (TAT)

The TAT contract is a cost reimbursement contract. The project officer evaluates technical merits of contract proposals. The Contracts Management Division determines whether the best value for services is being provided. The Contract Office reviews proposals to determine if costs are realistic and reasonable. This includes:

- ° Checking for underbidding
- ° Determining if charging is consistent with industry standards for work being performed
- ° Reviewing previous and competitor costs
- ° Examining the contractor's fee

Contractors also are audited to determine if proposal costs are consistent with current business expenses.

Emergency Response Cleanup Service Contracts (ERCS)

The ERCS contract is a fixed fee contract. The Agency's Contracts Division reviews proposals and relies on price competition to determine if costs are reasonable. This includes:

- ° Reviewing different proposals to determine reasonableness.
- ° Considering what the EPA has been paid in the past.
- ° Examining the Bluebook for equipment for suggested rental rates.

Remedial Planning/Field Investigation Team (REM/FIT)

The REM/FIT zone contractor is required to maintain cost documentation in sufficient detail to enable reconstruction of costs incurred on a site-specific basis for purposes of cost recovery litigations and to evaluate the reasonableness of invoices. Documentation consists of the site-specific job cost ledgers and construction logs necessary for this purpose. Documentation and cost is coordinated with the On-Scene Coordinator in accordance with the National Contingency Plan. Specific project officer cost monitoring activity follows:

Field Investigation

The FIT Regional Project Officer (FIT-RPO) is responsible for estimating technical progress and comparing it against the financial status of all field investigation projects. After estimating the technical progress on the task, the FIT-RPO must determine if the charges for the task seems reasonable. The Regional Financial Progress Reports will be the primary source of financial information. The FIT-RPO verifies voucher charges against the total reported charges. The charges are not likely to match up exactly, due to timing differences, but the FIT-RPO should be satisfied that the differences are reasonable. If the total does not seem reasonable, the FIT-RPO will ask the contractor about the cause of the discrepancies.

Remedial Planning

The Regional Site Project Officer (RSPO) is required to estimate costs and technical progress for the project. These estimates are based on discussions with Regional workplans. The RSPO investigates the cause for differences between planned and actual costs for the project. If a change in funding appears necessary, the Headquarters Remedial Planning/Deputy Project Officer is notified. A new plan will be developed based on discussions with the REM/FIT zone contractor, the REM-RPO and the RSPO. If an increase or a shift in funding is required, the RSPO requests issuance of a new work assignment.

Question: Superfund contractors are primarily hired under cost-reimbursement contracts. The Code of Federal Regulations require continuous surveillance by Federal employees to insure wasteful methods are not used, when this contract type is used? How is EPA complying with this directive?

Answer: In addition to the Procurement and Contracts Management Division and Inspector General responsibilities for contract oversight, Superfund's major response contracts all have performance evaluation boards. These boards meet three to four times each year to assess how the contractor is doing. The criteria used in these reviews include project planning, technical competence, scheduling and cost control, resource utilization, and accomplishments.

USE OF COST-BENEFIT ANALYSIS FOR THE PARTICULATE MATTER AMBIENT AIR QUALITY STANDARDS

Question: In March 1983, Mathtech, Inc. prepared a cost-benefit analysis for the particulate matter ambient air quality standard, to comply with the requirements of Executive Order 12291. The analysis considered several alternative standards, involving various combinations of particle size measures, allowable ambient concentrations, implementation dates, and averaging times. The analysis concluded that the alternative standards ranked as most efficient are either the least or most stringent of the standards evaluated, depending on the studies used and the assumptions made. What is the current status of the cost-benefit analysis being prepared for the particulate matter ambient air quality standard?

Answer: In accordance with Executive Order 12291, EPA has prepared a draft Regulatory Impact Analysis (RIA) based on information developed by several contractors (including Argonne National Laboratory and Mathtech, Inc.). The RIA includes estimates of costs, benefits, and net benefits associated with alternative standards. The availability of the draft analysis, entitled Regulatory Impact Analysis of the National Ambient Air Quality Standards (NAAQS) for Particulate Matter, was announced together with the proposed revisions to ambient air quality standards for particulate matter which were proposed on March 20, 1984. A final RIA will be issued at the time of promulgation.

Question: How will it be used in setting the particulate matter standard?

Answer: Neither the draft RIA nor the contractor reports, including Mathtech, were considered in issuing the proposed revisions to the particulate matter standards. Several recent judicial decisions make clear that the economic and technological feasibility of attaining ambient standards are not to be considered in setting them, although such factors may be considered to a degree in the development of State plans to implement the standards. Thus, under our current interpretation of the Clean Air Act, it would not be appropriate to consider results from cost-benefit analysis in setting ambient standards. However, EPA has requested comment on whether attainment costs can and should be considered in setting the secondary NAAQS for particulate matter.

Question: What use does EPA plan to make of cost-benefit analysis in the future?

Answer: While it is not appropriate to consider cost-benefit analysis in setting an NAAQS, the Agency is currently considering the generic issue of the role, if any, benefits analyses may have in setting ambient standards as part of the particulate matter standard review. If the Agency concludes that information from benefits analysis may be legally and technically relevant to standard setting, EPA would submit the portions of future RIAs thought to be relevant to the Clean Air Scientific Advisory Committee (CASAC) and the public for comment on their scientific and technical adequacy.

Question: How is EPA addressing some of the inherent problems of cost-benefit analysis, such as lack of scientific data on health effects?

Answer: Through its research program, EPA is seeking to insure the necessary scientific data bases are available to support the development of national ambient air quality standards. As part of this process, the Clean Air Scientific Advisory Committee was asked to conduct an assessment of research needed to support ambient standards. The results of the Committee assessment will be used in the Agency research planning efforts. Improving the data bases used in standard setting will also facilitate the conduct of cost-benefit analyses by making available necessary health and welfare effects information.

In addition to improving the underlying data bases, future benefit analyses and cost-benefit analyses prepared as part of the RIA's for ambient standards will undergo multidiscipline peer review of the proposed methodology as well as the exposure and effects data used. As noted above, those portions of the RIA determined to be relevant to setting NAAQS will be reviewed by CASAC and the public.

Question: What EPA research efforts are planned to overcome some of the data problems in cost-benefit analysis?

Answer: In the cost-benefits analysis area, current research efforts have focused on developing improved approaches and methodologies for: (1) valuing mortality and morbidity; (2) conducting ecological impact assessments; and 3) performing morbidity benefits analyses. Efforts underway also include development of health econometric methods, comparative valuation of health risk reduction as well as refinement of visibility valuation approaches. Future efforts will address materials damage, and soiling effects.

AIR PROGRAMS

Question: In the air program, EPA is deeply involved in the process of reviewing and revising the National Ambient Air Quality Standards (NAAQSs). In terms of total workyears and funding for this activity, what is the actual for 1983, estimate for 1984, and budget for 1985?

Answer: The following represent funding levels for NAAQSs activity in 1983, 1984, and 1985:

	1983 Actual	1984 Estimate	1985 Budget
Workyears	23.8	23.8	24.4
Extramural Dollars (Thousands)	755.0	1,143.0	989.0

Question: EPA says it will assess the current process during 1984, and that the assessment may change the scope of the program and the associated resource requirements. When will the 1984 assessment be complete? Who is making the assessment?

Answer: The Assistant Administrators for Air and Radiation and Research and Development have jointly initiated a study of the current process for revising the National Ambient Air Quality Standards. The study is already underway and is scheduled to be completed by late summer. The results of this assessment will be made available to the Committee as soon as possible after the conclusion of the study.

Question: EPA indicates that it plans to revise its particulate (TSP) standard during 1985. In light of the fact that many states are now or will soon be revising their SIPs, how does EPA expect States to address TSP in upcoming SIP revisions most of which are due in no later than early 1985?

Answer: When EPA notified certain States in February 1984 that their SIPs were inadequate to provide for attainment of air quality standards, the Agency noted that TSP SIP revisions were not being called for at that time. EPA is currently considering several options for addressing TSP in the period prior to promulgation of a revised particulate matter standard. These options range from focusing on the collection of air quality data for the proposed standard and not requiring revised TSP SIPs to requiring the development of TSP SIPs especially for those areas currently lacking approved SIPs. Whichever option is selected will emphasize a smooth and timely transition from control programs focused on attainment and maintenance of the current TSP standards to strategies for meeting the revised standards. All requirements of existing SIPs remain in effect, notwithstanding the proposal and promulgation of revised ambient standards. Until SIP revisions modifying existing emission limitations are approved by the Agency, the existing limitations remain fully enforceable for purposes of Federal and State enforcement and citizen suits.

Question: How long has EPA been working on a revised TSP rule? What's taking the Agency so long?

Answer: The review and revision of the National Ambient Air Quality Standards (NAAQSs) is a difficult and time-consuming process. For example, the preparation and scientific review of the criteria document takes two to three years and usually involves at least two drafts. These drafts are first peer reviewed at scientific workshops and then issued for public comment and reviewed by the Clean Air Scientific Advisory Committee (CASAC). The process also involves the preparation of a staff paper interpreting the evidence in the criteria document for use in standards setting. This staff paper must also be reviewed by the public and CASAC. A minimum of two review cycles on the staff paper is usually required.

Although this process is necessarily time-consuming, it is extremely important that all areas of uncertainty be carefully evaluated both by EPA and the scientific community before any major shifts are made in standards and related regulatory programs.

In the case of the particulate matter (PM) standard review, it has been our most difficult and complex to date. The available scientific data indicate that there is no identifiable effects threshold for PM and there is a continuum of response in which the likelihood and the magnitude of effects decrease with concentration. Given this situation, it has been extremely difficult to select a standard that provides an adequate margin of safety particularly since public health protection appears to be the sole criterion. We began working on the revision to the PM criteria docment in 1979 and received CASAC closure on the criteria document and the staff paper in January 1982. On March 20, 1984 we proposed major changes to the PM standards by changing the primary (health based) standards from total suspended particulate matter to a size-specific standard that focuses on the smaller particles that penetrate and deposit in the respiratory tract.

Question: What improvements to the State Implementation Plan (SIP) review/approval process are needed to speed up the process? Please identify major bottlenecks in the SIP review process.

Answer: Revisions to SIPs are resource intensive, both for States to develop and for EPA to process. Once adopted at the State level, SIPs undergo a 10- to 14-month proposal and approval process that is consistent with the Federal Administrative Procedures Act. To speed up the process and help minimize delays, EPA has instituted a number of reforms in the SIP processing area. Some of the more important reforms are:

1. Institution of a formal EPA tracking and accountability system to assure that SIPs move rapidly through the Agency review process.

2. Establishment of an Agency task force that meets biweekly to address and resolve issues associated with individual SIPs.

3. Establishment of expedited EPA processing techniques to take public comment on State draft SIP actions at the same time that these drafts are moving through the State regulatory scheme.

EPA believes that these reforms will result in better management and accountability of the SIP process, will provide a better means of assuring conflict resolution, and will streamline the SIP process appreciably.

Question: How has EPA decided to handle extension areas which cannot demonstrate attainment in the 1982 SIP by the statutory deadline of December 1987? (e.g., California)

Answer: EPA is currently evaluating the State implementation plans (SIPs) for areas which cannot demonstrate attainment of the air quality standards by 1987. States with such areas are required to provide a continuing demonstration that the areas are doing everything that can be reasonably expected of them to solve their nonattainment problems. These actions include adopting controls on major stationary sources which exceed those minimum levels of control generally regarded as reasonably available control technology (RACT), adopting controls for additional source categories not currently subject to control, more extensive use of transportation controls, provision of commitments and schedules for increasing the stringency and coverage of inspection/ maintenance (I/M) programs to the extent feasible, and requiring that emissions offsets from major source construction or modification must exceed 1:1 by an amount sufficient to accommodate the growth of uncontrolled area and minor sources. EPA will withhold action on funding restrictions under Sections 176(a) and (h) of the Act as long as reasonable efforts continue to be made in these areas.

EPA considers this policy to be a temporary solution to the post 1987 nonattainment problem. Long term relief will require legislative action to revise the Clean Air Act.

Question: Section 105 of the Clean Air Act provides for the Environmental Protection Agency (EPA) Administrator to make grants to air pollution control agencies to plan, develop, establish, improve or maintain air pollution control programs. The funding level for this program is about $85 to $87 million annually. In order for a grantee to be awarded funds, the grantee must show that it is maintaining its non-Federal funding level-of-effort from year to year. How does EPA ensure that the air grantees are maintaining their required levels of efforts?

Answer: The Environmental Protection Agency (EPA) employs several procedures to ensure that air grantees comply with provisions for maintaining the required non-Federal level-of-effort from year to year. Because the provisions must be based on actual grantee expenditures, compliance can be evaluated only on a prospective basis at the time grant funding is initially requested. Prior to award, grantee applications are reviewed by the EPA staff for inclusion of appropriate guarantees and funding to assure compliance. Included in this pre-award review is the historical performance of the grantee in meeting the required provisions. After completion of the grant year, compliance is then verified by EPA staff reviewing the grantee-submitted financial status reports required by the EPA grant regulations. Both the grant and non-Federal expenditure levels detailed in these annual reports are assessed including comparison of non-Federal expenditures to those in the previous year. In addition, these financial reports and supporting grantee records are subject to audit by the EPA Inspector General to further verify their accuracy and grantee compliance with the level-of-effort requirements.

Question: What sanctions or penalties does EPA apply to grantees who do not maintain their levels of efforts?

Answer: Several actions are taken by the Environmental Protection Agency (EPA) when an air grantee does not maintain the required level-of-effort. When review of the annual financial status report reveals grantee noncompliance, prompt notification is provided to the grantee of the noted deficiency. The grantee is requested to reinstate the required non-Federal funding level through direct payment to EPA of the amount necessary to correct the deficiency. In addition, action may be taken to annul the entire grant for noncompliance should the grantee not appropriately reinstate the non-Federal funding to the required level. Also, approval of any new or additional grant funding would be withheld pending resolution of the deficiency. Other possible actions EPA may undertake include formal debarment as an eligible grantee and appropriate judicial proceedings to recover the grant.

Question: With few EPA audits being done of grantee expenditures, how can EPA ensure that Section 105 funds are being spent on air-related expenses?

Answer: The Environmental Protection Agency (EPA) routinely implements several steps to ensure that air grants are employed by the respective grantees for necessary air-related efforts. Annually, national operating guidance is developed and extensive negotiations with individual grantees are conducted producing detailed grant applications and work plans containing specific commitments and activities which the air grantee will undertake and complete during the grant year. During the grant year, EPA staff maintains programmatic oversight of grantee activities and performance employing both formal (e.g., on-site reviews, analysis of State reports) and informal (e.g., telephone communications, meetings) mechanisms. Grantee performance in meeting the negotiated commitments is documented in the EPA grant files. Audits are performed at sufficient frequency to maintain credible review of grantee expenditures.

In addition, EPA in 1984 is initiating its newly developed National Air Audit System addressing the major components of State and local air pollution control programs (i.e., compliance, air monitoring, new source review, and air quality planning). This comprehensive audit program will further enhance the oversight of grantee programs.

STATE GRANTS

The National Governors Association met in Washington last weekend. The Governors adopted a budget plan which would reduce the Federal deficit to $167 million by 1985. They also adopted a resolution recommending that States grants administered by EPA be increased to $270 million. That recommendation is 14 percent above the $237 million requested.

The States tell us that the lack of grant resources has hampered their abilities to issue air and water permits; resulted in declines in the number and quality of their air and water monitoring systems; and hamper their efforts to initiate new program activities involving toxic pollutants, nonpoint pollution and other air and water issues.

Question: How did EPA arrive at its decision that no increases in Section 105 air and Section 106 water grants are needed? Did EPA perform any type of workload analysis of State activities or obtain any input from the States concerning their ongoing activities and the adequacy of existing resources?

Answer: During the development of the President's Budget for 1985, extensive discussions were held internally and with staff from the Office of Management and Budget to determine the appropriate levels of grant funding for these two programs. While a formal process of workload analysis for State activities was not conducted, the President's Budget is based on information developed jointly by EPA Regions and States on the work that needs to be conducted in 1985. It also should be noted that other factors such as the availability of revenues from permit fees and overall increases in productivity on the part of State personnel should help offset the impact of level or reduced Federal funding.

Question: How would EPA respond to the concerns raised by the States that they do not have sufficient resources to properly carry out their air and water program responsibilities and that additional resources are needed?

Answer: EPA has initiated efforts to improve on the partnership that has developed over the years, primarily through the recently completed State/Federal Roles Task Force. Recognizing the crucial role States play in meeting environmental goals but also recognizing EPA's need to carry out a myriad of responsibilities with limited funds, we have proposed 1985 funding levels for State grants roughly equal to those appropriated in 1984.

Question: Does EPA anticipate any increase in Section 105 and 106 grants in future years? If not, how does EPA expect the States to maintain their ongoing program activities and take on new program responsibilities in complex areas such as controlling toxic pollutants in our air and water?

Answer: The Agency is not in a position to predict future funding levels for either of these two programs. In terms of the States' ability to maintain an adequate mix of ongoing program activities while at the same time respond to new initiatives, EPA annually publishes detailed guidance for its Regional offices to assist them in developing grant work plans for the various States. This guidance identifies specific priority activities, which the States are asked to address to the fullest extent possible. However, EPA does recognize the need for States to maintain an adequate base of ongoing activities if their programs are to remain viable, and this need is given full consideration during the conduct of grant negotiations.

In order to continue to build on the work done by the State/Federal Roles Task Force, the Agency will shortly convene a State Grants Task Force. This group, composed of representatives from EPA, the States, and various outside groups such as the National Governor's Association, will seek to develop a series of alternative policy choices for the Administrator to consider. While the group will not be asked to recommend specific funding levels, we are hopeful that their insights can be used to make, among other things, a clear delineation of responsibility between EPA and the States vis-a-vis the various grant programs and a consensus on the overall purpose of these programs.

Question: What assurances can you give us that the air and water grant funds are being used effectively? Do you have monitoring data that shows the situation before the air and water programs began and the situation today? Do you believe that data is representative of the nation's air and water quality?

Answer: As an ongoing part of the oversight process for these two programs, EPA Regional staff negotiate each year specific effectiveness measures with the States which are then used as the basis for periodic reviews of their programs. Both the measures and the review procedures to be used are agreed upon in advance by both parties.

In terms of actual monitoring data, both programs periodically produce national reports which document the overall quality of the nation's air and water.

In the water program this information takes the form of a biennial report authorized under Section 305(b) of the Clean Water Act. That report describes the quality of the nation's navigable waters and also includes an analysis of the extent to which pollution control actions have achieved the most current level of water quality. The analogue to this report in the air program is the annual National Trends Report, which documents historical changes in both ambient air quality and emission levels of specific pollutants. Finally the Agency has recently developed the Environmental Management Reports which outline the major environmental concerns in each Region for all media.

While the Agency is constantly seeking better ways to document the effectiveness of our grant resources, we feel that these reports, each of which relies heavily on data generated by the States, provide the best indication currently available of nationwide changes in air and water quality.

Question: Will EPA seek external review of the measures it intends to use to assess the effectiveness of State and local environmental programs?

Answer: As mentioned earlier, the measures used in assessing the effectiveness of State programs are jointly determined by Regional and State staffs before grant funds are awarded. While this process of negotiation has been going on for several years, the Office of Air and Radiation has recently initiated the National Air Audit System which documents in detail the procedures that EPA will use to audit State programs along with specific effectiveness measures to be used as the basis for the audits. This system was developed after extensive negotiation with the States and is a good example of a cooperative effort between both parties in order to make use of a consistent set of indicators of improvements in air quality.

Question: What resources are included in the fiscal year 1985 request for the assessment of State compliance?

Answer: Our 1985 request for State grants does not include resources for assessing State compliance. Resources for this function are budgeted in the program offices that oversee the various State programs funded with grants.

Question: EPA has traditionally supplemented its air and water grant assistance to the States with training in air and water pollution control activities. However, in its 1985 budget, EPA has basically terminated Federal involvement in air and water training. How did EPA arrive at its decision that the States can support their own training needs and that Federal assistance is not needed?

Answer: Limited numbers of Federal personnel are still available in the Air program to carry out training activities. Federal funds have been provided for both of these programs for a number of years. The Agency's position is that the States should now assume responsibility for conducting any additional training that may be required.

Question: Could reductions in training funds for water pollution control activities, such as treatment plant operation and maintenance, affect the operation and maintenance of plants?

Answer: Before we make a definitive assessment of the causes of operation and maintenance deficiencies, factors such as plant design deficiencies, faulty equipment, inadequate pretreatment of influent, and excessive flow rates would have to be considered.

Question: The proposed 1985 budget for State water grants remains the same as last year. Yet the budget request is optimistic that more permits will be issued, backlogged permits will be issued, and compliance will be improved. The States were unable to perform these activities last year. Why do you believe they can do better in 1985, given the constant funding level?

Answer: While it is true that funding for State water grants under Section 106 of the Clean Water Act remains constant in 1985, we believe that three factors will contribute to an increase in the amount of work the States can accomplish in 1985.

(1) The availability of funds under Sections 205(g) and 205(j) of the Clean Water Act to supplement resources under the basic 106 water grant;

(2) The availability of other sources of State funds such as permit fees; and

(3) Increased efficiency on the part of State staffs as they become more familiar with basic program operations and realize the benefits of technical assistance provided by EPA staff. In particular, EPA has now issued several more effluent guidelines, which should allow a State to issue more permits for the same amount of staff investment.

QUESTIONS ON THE EPA AND THE NOISE CONTROL ACT

Question: What are the major programs that existed under the Noise Control Act and what did they accomplish?

Answer: Under the Noise Control Act of 1972, the Agency established the Office of Noise Abatement and Control (ONAC). The program undertook activities to identify major sources of noise, developed regulations for some of the sources, proposed aircraft noise standards to the Federal Aviation Administration, conducted research on noise, provided technical assistance to States and communities, and disseminated information on levels of noise requisite to protect the public health and welfare.

Relative to regulations, the identification process of major noise sources was prescribed under Section 5 of the Act. Subsequently, under Section 6, final regulations for major noise sources were developed and promulgated for medium and heavy trucks, motorcycles, and portable air compressors. In addition, the Agency completed final regulations for various types of interstate railroad equipment and facilities (Section 17) and also published a regulation dealing with trucks in interstate commerce (Section 18); both required under the Act. The Agency also developed product labeling requirements to provide information to the prospective users on how much noise a product generates or how much certain products such as hearing protectors or acoustical devices reduce noise exposure.

Two of EPA's final regulations which are preemptive of State and local government regulations are enforced by the Department of Transportation:

1. Interstate Motor Carrier Regulation - Bureau of Motor Carrier Safety

2. Interstate Rail Carrier Regulation - Federal Railroad Administration

Four new product regulations, which are also preemptive of State and local laws, are subject to self certification compliance:

1. Medium and heavy trucks
2. Motorcycles
3. Portable air compressors
4. Hearing protectors and general product labeling

The research program initiated studies on the cardiovascular effects of noise, sleep disturbance, the effects of communication interference on learning, the effects of environmental noise on children's hearing, stress effects, noise and the unborn, airport and highway noise. As sponsor or focal point for the development of research and scientfic data collection, the Agency prepared an extensive bibliography of materials on the health and welfare effects of noise on humans and animals.

Other elements of the Agency's research efforts dealt with specific product areas with an overall objective of promoting design and planning for quiet. The research program maintained heavy emphasis on aviation noise, the development of quiet trucks engine components, tires and other technologies. Indoor noise received much attention. Numerous technical reports on industrial contruction equipment and land use planning were also published.

Initially under the Act, publications for school curricula, for both primary and secondary levels, as well as audio visual materials to aid local program efforts were developed.

Under the Quiet Communities Act of 1978, which amended the original Act the Agency focused on aiding States and localities to establish effective noise control. We provided the public with information on the harmful effects of noise, established technical support centers in each of the ten EPA Regions, developed materials and sponsored over 100 training programs for State and local personnel. Ninety seven (97) grants were awarded to State and local governments, universities and non-profit organizations to develop control capability, methods and new technologies and reinforced individual program initiatives. A national ECHO (Each Community Helps Others) program provided experienced voluntary peer assistance on noise control to over 300 local governments, and States were encouraged to adopt this cost effective approach. The "Buy Quiet" program provided economic incentives for the purchase of quieter products through State and local procurement mechanisms. Development of materials and assistance to local governments in noise abatement through land use planning, and airport noise abatement planning were underway. Annual meetings of State noise program directors were held as a valuable medium for the exchange of ideas. Sound measurement equipment was made available to State and local agencies, which at ONAC's closing, one and a half million dollars of equipment was placed on loan to State programs.

Through the public education and information system, and in compliance with the Act as amended the Agency maintained a State and Local Public Education and Information Program. Mass numbers of printed documents, technical reports, pamphlets, tracts and posters for general issue were made available. Audio visual devices, promotional and educational kits were disseminated to State and local governments, noise control officials, educational institutions, government agencies, service organizations, industry and commerce, non-profit organizations and the media.

A bibliography was compiled of all technical documents generated by ONAC and which are still available from the National Technical Information Service.

Question: During the period from the enactment of the Noise Control Act in 1972 until its funding lapsed in 1981, how many noise emission standards actually went into effect?

Answer: There were 8 final noise emission regulations issued during the 1972-1981 time period.

Question: What are they?

Answer:

1. Interstate Motor Carriers - 10/29/74
   9/17/83 (Planned proposed Amendment - Not issued)

2. Medium and Heavy Trucks - 4/13/76
   - 3/1/77 (Technical Amendment)
   - 6/13/77 (" ")
   - 12/5/77 (" ")
   - 11/27/79 (" ")

   - 1/27/81 (1st Deferral of 80 dB Standard)
   - 2/17/82 (2nd Deferral of 80 dB Standard)

3. Portable Air Compressors - 1/14/76

4. Motorcycle and Motorcycle Exhaust Systems- 12/31/80
   12/31/80 (Proposed Technical Amendment)
   12/1/82 (Withdrawal of Proposed Technical Amendment)

5. General Product Labeling - 9/28/79

6. Labeling Hearing Protectors - 9/28/79

7. Interstate Rail Carriers
   Locomotive/Railcars - 1/14/76
   Switcher Locomotives - 1/4/80
   Retarders - 1/4/80
   Load Cell Test Stands - 1/4/80
   Car Coupling - 1/4/80
   Railyard Property Line - 4/17/79 (Proposal)
   12/1/82 (Proposal Withdrawn)

8. Truck Mounted Solid Waste Compactors - 10/1/79
7/15/83 (Regulation Withdrawn)

Question: How many were proposed?

Answer: There were 4 proposed noise emission regulations issued during the 1972-1981 time period that were never promulgated. They were:

1. Wheel and Crawler Tractors - 7/11/77

2. Buses - 9/12/77

3. Special Local Determinations - Interstate Rail Carriers - 11/29/76
   - 2/2/82 (Proposal Withdrawn)

4. Special Local Determinations - Interstate Motor Carriers - 11/29/76
   - 2/2/82 (Proposal Withdrawn)

By Federal Register Notice there were 6 noise emission sources which were determined to be "major" sources of noise as a result of analysis and study. Unless their "identifications" are withdrawn it will necessitate, at some time in the future, the development of proposed and perhaps final regulations. They were:

1. Wheel and Crawler Tractors - 5/28/75
2. Buses - 5/28/75
3. Truck Transport Refrigeration Units - 5/28/75
4. Power Lawn Mowers - 1/12/77
5. Pavement Breakers - 2/3/77
6. Rock Drills - 2/3/77

On 12/1/82 the proposed noise emission regulations for Wheel and Crawler Tractors and Buses, and their identification as "major" sources of noise, and the 4 other identified sources, i.e., Truck Transport Refrigeration Units, Power Lawn Mowers, Pavement Breakers and Rock Drills, were "proposed" to be withdrawn in the Federal Register. No final action has been taken to promulgate final withdrawal actions to date.

On 8/14/81 the Agency (in the Federal Register) suspended enforcement of reporting and recordkeeping requirements and simultaneously proposed revocation of these requirements for:

Portable Air Compressors
Medium and Heavy Trucks
Labeling - Hearing Protectors
Truck Mounted Solid Waste Compactors
Motorcycle and Motorcycle Exhaust Systems

On 12/28/82 the Agency (in the Federal Register) issued a final rule revoking all Reporting and Recordkeeping Requirements and Product Verification Testing. This action was necessitated by the lack of enforcement program funds for noise.

Question: When did the Agency last issue a noise emission Standard?

Answer: December 31, 1980.

Question: How many (if any) EPA personnel are currently assigned to the Noise Control Program?

Answer: No EPA employees are assigned to the Noise Control Program, although EPA does respond to questions concerning the Act.

Question: Does the Agency have any authority to expend funds to implement the Noise Control Act?

Answer: No. See the attached Memorandum from A. James Barnes, Acting General Counsel to Charles Elkins, Acting Assistant Administrator for Air, Noise and Radiation, dated August 23, 1983.

Question: How many requests does the Agency currently receive regarding noise?

Answer: Using as a guide the quarterly range for 1983, the following are representative of the scope/type of requests on an annual basis. However, this rate has significantly decreased as the public becomes more aware of the abolition of the Federal program.

- 40 to 50 written Congressional requests

- 800 to 1000 telephone calls from a wide variety of sources throughout the nation on both regulatory and non-regulatory matters

- 1000 to 1200 mail requests for noise information and/or pamphlets previously prepared by the Agency.

- 100 State and local government, industry* or environmental groups requests for information on technical assistance, equipment, regulatory interpretations, enforcement, noise regulation and standards development.

*Recently several truck manufacturers and the American Trucking Association petitioned the Administrator to defer the 80dB standard for medium and heavy trucks effective January 1, 1986.

Question: Under the Quiet Communities Act provisions of the Noise Control Act what was the extent of Agency assistance to local communities and States?

Answer: Charged with promoting the development of effective State and local noise control programs, the Agency provided direct technical assistance to State and local governments through the Office of Noise Abatement and Control, and the noise program offices and Technical Assistance/Training Centers in each of the ten EPA regions. Training classes in noise problem identification and control were held throughout the country; an award-winning correspondence course for local officials and a manual for police officers were developed and initiated. The National ECHO (Each Community Helps Others) arranged for over forty experienced noise control officials to provide assistance to some 240 communities which requested help with noise program development. Some one and a half million dollars of noise monitoring equipment was loaned to State and local agencies, with instruction provided in its use. Other communities utilized the services of senior citizens trained as noise counsellors. The Buy Quiet Program developed economic incentives for quieter products through State and local procurement mechanisms. Annual meetings of State and local program leaders provided for information exchange and updating.

Twenty five States and twenty four local governments received grants to build noise control capability - $30,000/year was the average State grant; $10,000/year for local grants. Demonstration projects for technologies for controlling community noise were funded, as well as research focusing on the non-auditory health effects of excessive noise.

Question: Are any studies or research activities occurring concerning the health hazards of noise presently?

Answer: Yes. The last three health effects studies funded by EPA from 1977 to 1981 have just been completed, including a 4 year study at the University of Miami on the effects of noise on the cardiovascular system of monkeys. The reports have not been peer reviewed or released.

Question: Since the phase out of the EPA Noise Control Program in 1982, to what extent have states and localities picked up the burden? If so, how many?

Answer: At the time of the EPA program close-out, twenty-four States had active noise programs, i.e., allocation of resources for noise control. Over 300 cities with populations in excess of 25,000 had active noise programs. We understand that four States which received "start-up" grants from EPA, i.e., Delaware, Ohio, North Dakota, South Carolina, have functioning programs with full or part time personnel.

Question: How many states or localities have any sort of noise control law? What are they?

Answer: See preceding response.

Question: How many states and localities have discontinued their programs since 1981? What are they?

Answer: We understand that three States have discontinued their programs - New York, New Mexico and Washington.

Question: Have any states initiated programs since 1981?

Answer: With the noise program closed-out, neither headquarters nor regional staff have been available to track and report on the status of State and local noise programs.

Question: Is the Agency carrying out any provisions of the Noise Control Act?

Answer: No. Although the Noise Control Act as amended technically remains on the books, the authorization for the Act lapsed September 30, 1979. Since the Congress has neither reauthorized the Act nor otherwise appropriated funds to implement it, EPA is precluded from expending funds to carry out any provisions of the Act.

Attachment

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 23 1983

OFFICE OF
GENERAL COUNSEL

MEMORANDUM

SUBJECT: Noise Authorities

FROM: A. James Barnes
Acting General Counsel

TO: Charles L. Elkins
Acting Assistant Administrator
for Air, Noise and Radiation

Your memorandum of August 2, 1983, asks for our views on EPA's current obligations under the Noise Control Act of 1972, 42 U.S.C. §4901 et seq. ("the Act").

ISSUE PRESENTED

Whether EPA has continuing legal authority to implement the Act.

ANSWER

No. Until Congress appropriates funds to carry out duties under the Act, EPA may not lawfully expend funds for that purpose.

DISCUSSION

Although the Noise Control Act technically remains on the books, the authorization for the Act lapsed several years ago, and Congress has neither reauthorized the Act nor otherwise appropriated funds to implement it. Accordingly, EPA is precluded from expending funds for that purpose:

> Appropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law.

31 U.S.C. §1301(a). "The unambiguous meaning of this relatively straightforward provision is simply that appropriated funds are to applied solely to statutorily-enumerated purposes. . . ." United States ex rel. Joseph v. Cannon, 642 F.2d 1373, 1380 (D.C. Cir.), cert. denied, 102 S.Ct. 1630 (1981) (construing 31 U.S.C §628, the similarly worded predecessor to 31 U.S.C. §1301(a)).

On May 16, 1983, a bill was introduced in the Senate to authorize the appropriation of $10,000,000 for fiscal year 1984 to carry out the Act. S. 1280 (98th Cong., 1st Sess.). However, that bill has not passed the Senate, and there is no comparable bill pending in the House. Until such legislation is enacted, or funds are otherwise appropriated to carry out the Act, 2/ EPA is barred from implementing it.

cc: Howard Messner
Alvin Alm
Morgan Kinghorn
Joseph A. Cannon
Louise Giersch

1/ The situation is not unlike those we have faced in recent years when, absent appropriated funds or a continuing resolution allowing expenditures, federal agencies have been instructed to direct their efforts to winding down programs.

2/ The normal process takes place in two stages: first, Congress authorizes appropriations and then, as part of the budget process, it actually appropriates funds. In fact, the Comptroller General has ruled that Congress can dispense with the first step, and may appropriate funds based solely on the existence of a statute imposing substantive functions upon an agency. B-111810, March 8, 1974. However, that short cut is not only unusual, but is technically a violation of the rules of the House of Representatives. See Rule XXI(2).

Questions for the Record Submitted by Senator Chafee

CRIMINAL INVESTIGATORS

Question: How many criminal investigators does EPA have working on the hazardous waste enforcement programs?

Answer: EPA is requesting 31 criminal investigators for all media in FY 1985 (the same as for FY 1984). The investigators currently devote approximately 60% of their time to the hazardous waste enforcement program.

Question: How much funding is being requested to the President for additional criminal investigators?

Answer: The President's Budget is requesting no additional workyears for the criminal investigations program. The FY 1984 Budget provides for 31 investigators; the FY 1985 President's Budget will maintain this level.

Question: How much funding did Mr. Ruckelshaus' submission to OMB contain for additional criminal investigators?

Answer: EPA requested no support above the 1984 level.

RCRA HAZARDOUS WASTE PROGRAM

Question: Please complete the following table.

Answer:

	President's 85 Request	Ruckelshaus OMB Submission
Total Hazardous Waste	$143,267.9	$162,748.7
RCRA	108,511.2	122,033.8
Breakdown		
section 2007(a) general authorization	(61,511.2)	(68,003.8)
3011(a) state hazardous waste programs	(47,000.0)	(54,030.0)
3012 hazardous waste site inventory	(0.0)	(0.0)
4008(a) (1) development and implementation assistance	(0.0)	(0.0)
4008(a) (2) (c) implementation assistance	(0.0)	(0.0)
4008(e) (2) special communities	(0.0)	(0.0)
4008(f) assistance to states for recylcled oil programs	(0.0)	(0.0)
Environmental Research, Development, and Demonstration Act*	$34,756.7	$40,714.9

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* These funds are not authorized under RCRA.

Questions for the Record Submitted by Senator Durenberger

PESTICIDES

Question: Mr. Ruckelshaus, your submission to OMB asked for a 56% increase in extramural support to speed up review of old pesticides like EDB. Instead, OMB cut your request by $2.75 million, allowing you only an 11% increase.

Re-registration of pesticides is needed because many of the ones in common use have never been adequately tested. In fact, a National Research Council study to be released this afternoon will state that only about 1 pesticide in 10 has enough data to support a complete health hazard assessment.

Do OMB's cuts represent an opinion that completing review of these old pesticides is not very important? Don't you think these reviews ought to be finished promptly?

Answer: The reduction of approximately $2.8 million does not represent any lessening in the Agency's priority for reregistration of old pesticides. The principal activity supporting reregistration is the establishment of registration standards. That activity is funded at the requested level of $2.5 million in extramural funds, a continuation of the 1984 level of funding

The Agency is committed to use these resources to complete the complex process of updating and reviewing the data on registered pesticides as rapidly as possible. While the process has undergone numerous improvements in recent years, we are continuing to seek more efficient approaches to the reregistration program. The program has yielded significant fruits to date, and more are expected. Among these is the projected receipt in 1985 of the first significant number of scientific studies needed to fill out the data bases for existing pesticide chemicals. The 1985 budget contains resources for review of 500 to 600 such studies.

To date, OPP has issued 70 registration standards covering over 35% of the total pesticide poundage used annually in the United States. By the end of 1985, this fraction should reach about half of total use. By the early 1990's we expect to have issued standards for approximately half of the 600 chemical active ingredients involved in the reregistration effort. OPP estimates that standards will not be needed for the other half because they are out of production, will be voluntarily withdrawn, or are relatively harmless not requiring extensive review. The Agency is using a cluster approach to the development of standards so that chemicals with like uses are reviewed at the same time. Clusters have been ranked so that high volume and food use pesticides are addressed sooner rather than later.

This system is in place and it is working. We are putting our resources and our attention on those chemicals that matter most in terms of human exposure and health.

By far the major portion of the $2.8 million reduction from the Agency request was a $2 million for implementation of a pesticide monitoring program. This program is only now in the planning stage and will be considered in the context of an overall Agency monitoring plan. Because of this it was considered premature to request a specific funding level in this submission.

Question: In EPA testimony given to the Senate Agriculture and Senate Appropriation Committees, EPA estimated that 35 registration standards would be completed in FY 84 and in each year after that. In this year's budget, you estimate completion of only 25 standards in FY 84, and only 25 each year thereafter.

Does this represent a change in Agency strategy about when the registration standards program should or will be completed?

Would the extra $2.75 million help revive the RPAR program?

Answer: At the end of 1984 ninety registration standards should be established. We believe that standards will be required for about 300 of the 600 pesticide active ingredients. By establishing 25 standards per year, as planned, standards for the total of 300 should be completed during 1993 instead of 1991 as originally planned. This small delay in time seems acceptable when viewed in terms of the total Generic Chemical Review program, which requires continuing review of thousands of studies called for by the Data Call-In program and by the standards and which requires updating each standard accordingly.

The Special Review (RPAR) program calls for an increase in production from 10 to 11 decisions from 1984 to 1985. This program is quite viable under the proposed budget.

Question: Mr. Ruckelshaus, previous testimony provided to this committee and others in the Senate, as well as before House Committees, indicates that the pesticide program workload has greatly increased in recent years--by some measures, almost doubled. Yet, the appropriations request would add only 25 new positions and the FY 85 request is still below FY 80 levels.

Is your ability to restore public confidence in Agency decisions hindered by trying to complete increased workloads with resources that are still lower than they were 4 or 5 years ago?

As the Registration Standard and Data Call-In programs generate substantial amounts of new data, how does the Agency plan to finally complete reregistration as this data is received, without significant increases in resources?

Answer: While it is true that workloads in many categories of registration, special registration, and tolerance actions have shown increases in recent years, it is also the case that such externally generated workload has fluctuated in response to litigation and other influences beyond EPA control. Presently, demand for many such actions is showing signs of diminishing. While our projections are uncertain, we believe that resources allocated to such work are adequate to the task given the economies that have been accomplished in this part of the program in recent years.

As for data projected to come into EPA in response to the reregistration program, I pointed out previously that we have allocated significant resources for the new function of reviewing such data in 1985. That is the first year we expect to receive such studies in significant numbers.

PREMANUFACTURE NOTICE PROGRAM

Question: Mr. Ruckelshaus, the FY 1985 appropriations request for the Office of Toxic Substances shows that a large amount of resources are devoted to the Premanufacture Notice (PMN) Program. Has the Agency considered charging a fee to submitters of PMN's in order to make the PMN program self supporting? If a fee system were used, would additional resources be made available to other important parts of the TSCA program, such as review and regulation of existing chemicals?

Answer: Yes, EPA has looked into charging a fee to submitters of PMN's as described in Section 26(b) of TSCA. TSCA states that the maximum allowable fee under TSCA is $2,500, except in the case of a small business, for which the maximum is $100. TSCA also states that the fee must take into account the submitter's ability to pay.

Using 1982 as a model, our analysis of a fee system is as follows:

Cost to EPA for reviewing 1200 PMN's	$7,500,000
Revenue (Fees)	
o 10% of PMN's are submitted by "small" manufacturers: 120 PMN's x $100 fee	$12,000
o 1,080 PMN's x $2,500 fee (assuming no waivers)	$2,700,000
o Cost recovered	$2,712,000
o Cost not covered by fees	$4,788,000

There would be additional administrative costs to run a fee system which, without experience, we are unable to estimate.

To implement the fee system, the Agency would have to develop rules. The first rule would be complex, controversial, and costly to develop and administer. The rule would be unpopular with the industry, which would claim that EPA is violating Section 2(b)(3) of TSCA by "creating economic barriers to technological innovation." Environmental groups may claim that greater protection of public health could result from industry using the moneys to test new chemical substances for their toxicity. In addition, under TSCA as written, submitters of PMN's could ask for waivers from the fees. A second rule would be required after consultation with the Small Business Administration to prescribe standards for determining submitters which would qualify as small business (Section 26(b)(2)).

TSCA does not provide legislative authority for a revolving fund to be administered by EPA, and fee moneys would go back to the Treasury. If TSCA were to be modified to allow the revolving fund, the number of staff working on the PMN program would not decrease, since additional staff would be required to develop the rule and administer the program.

A fee system would recover approximately 35% of the cost of reviewing PMN's. Most of which would be eaten up by the administrative costs of implementing the system, or would simply go back to the treasury. After preliminary analysis, the development and implementation costs associated with a fee system would far outweigh the potential benefits.

Question: Similarly, Congress has directed EPA to consider making pesticide registration self supporting by charging a fee for applications. What is the status of this effort and would such a fee system provide additional resources for other functions within the pesticides program?

Answer: In 1980 the EPA did provide Congress an analysis of the feasibility of charging fees for pesticide registration. The study concluded that there were no administrative or technical barriers to the establishment of fees. However, the Agency recommended that they not be established at that time because of the number of complex activities taking place to implement the 1978 FIFRA amendments.

Once the bulk of these amendments was integrated into OPP operations, the issue of fees was reopened and is now being pursued actively. The required cost studies to support a fee structure are being conducted and the regulation to implement a fees program is being developed. OPP expects to issue a Notice of Proposed Rulemaking in the first half of 1985 and to promulgate final rules, and start charging fees, in 1986.

The legislative authority for charging fees is the Independent Office Appropriations Act of 1952. Under this statute, any fees collected are deposited in the treasury and are not available to the program. The provision of funds adequate to carry out the program is expected to continue to rely upon the appropriations process, as it does now.

TSCA

Mr. Ruckelshaus, as you know, my subcommittee held several days of oversight on TSCA a few months ago. Three things became quite clear to me at that time:

1) For various reasons, the TSCA program is just beginning to make headway in the areas of existing chemical review and regulation.

2) OTS staff already are overworked. In response to my questions, the Director of the Office of Toxic Substances described an overload situation in which large numbers of staff routinely work weekends.

3) An information gathering apparatus for existing chemicals that will generate a large number of studies and reports has been set up and is now operating.

It will lead to a substantial workload increase.

Your budget request to OMB says that staff will have to review and screen:

- over 2500 information notices under Section 8 rules.
- 300 toxicology studies of designated chemicals. This This will lead to an estimated 60 chemicals being referred for evaluation, which will require
- 105 risk evaluation studies of various types
- 28 regulatory actions including proposed and final rules

To support this activity, you asked for additional staff and budget authority, but OMB cut your staff request by 36 percent and your budget request by 11 percent.

I assume your budget request represents your best estimate of what you will need to adequately review the information on chemicals that will come flowing in.

Question: Can you assure the committee that you will be able to handle that information just as well as with 36 percent fewer additional staff than you requested?

Answer: The President's budget request for the Existing Chemicals Program will allow us to undertake close to the same level of work we anticipated at the time we prepared the submission to OMB. We will review the same number of Section 8 notices, receive more Section 4 studies, and perform the same number of risk evaluation studies. We will take 2 fewer regulation actions than we estimated in the OMB submission.

Question: Specifically, what will you have to give up in the way of actions to implement TSCA due to these cuts?

Answer: If we discover additional chemicals that require evaluation, they will enter the risk evaluation and, if warranted, the risk management stages at longer intervals after identification.

Question: In terms of overall TSCA program increases that you sought, OMB cut

- Your budget request by 35%
- Your staff request by 54%
- Your R&D request by 55%

How will these cuts be allocated? Specifically, what actions will you be unable to take due to these cuts that you would have taken had your request been granted?

Answer: The decrease to the Toxic Substances Abatement, Control and Compliance from the OMB request to the President's Budget represents a 5 percent reduction of the budget request and 10 percent of the staff request. The reductions are in the Chemical Testing 10.4 FTE, Existing Chemical Review 12.4 FTE, and Toxic Substances Enforcement 44.8 FTE programs. The reduction to the Toxic Substances Enforcment Grant program was $500,000.

With respect to the the Research and Development program, the reduction from the OMB submission to the President's Budget was $3.3 million or 11 percent, not 55 percent. This reduction occurred primarily in engineering and environmental processes and effects activities, because it was believed that sufficient resources had been provided to support Section 4 and Section 5 TSCA activities.

Questions for the Record Submitted by Senator Moynihan

ACID RAIN - OMB BUDGET REQUEST VS. PRESIDENT'S REQUEST

Question: The computer printout provided by EPA, and dated February 7, 1984, indicates that the Agency requested $61.3 million for acid rain research in FY 1985 when it submitted its request to the OMB. In his final budget submission to Congress, the President requested only $34.3 million for the EPA to conduct acid rain research. Can you explain the difference?

Answer: The Ad Hoc Committee to Review the National Acid Precipitation Assessment Program (NAPAP) was established by the Interagency Task Force on Acid Precipitation on August 17, 1983. After five months of study the "Deutch Committee" (named after its chairman, Dr. John M. Deutch), submitted its final report to the Task Force. While the Committee recognized the need for additional resources over a period of time, its report stated "... however, many of the key scientific questions....will require many years of research to answer, in part because of the time scale of natural processes; accelerated funding cannot in all cases lead to better answers sooner." The President's FY 1985 budget request for acid rain reflects these recommendations of the Deutch Committee.

The difference of $27 million between our initial request and the President's Congressional Budget Request is reflected in the following list of adjustments and deletions. The principal reason for the difference can be attributed to the Task Force's reevaluation of project costs. In almost all of the cases noted below, the Task Force's final assessment of costs were lower than originally requested.

-$1.0 million for research on forests and soils.

-$2.5 million for a lake liming demonstration. (Note: funds were requested by the Fish and Wildlife Service for FY 1985 and they will conduct this liming program).

-$4.1 million for the National Lake Survey. (Note: funds in the amount of $5.5 million have been requested in an FY 1984 supplemental EPA request).

-$2.0 million for continuous emissions monitoring.

-$1.1 million to supplement research on atmospheric models.

-$1.6 million to support a rapid data assessment and processing system.

-$1.1 million for short-term policy development.

-$1.8 million for expansion of cost/benefit research.

-$0.9 million to establish new materials exposure field sites.

-$0.5 million to expand wet deposition monitoring.

-$5.1 million to enhance dry deposition monitoring in conjunction with the National Trends Network.

-$5.0 million to establish a mountain top cloud chemistry network.

-$1.3 million to support a comprehensive field experiment.

+$1.0 million for ambient monitoring.

ACID RAIN - MORTALITY TRENDS OF FORESTS

Question: Given this new concern in the scientific community about growth and mortality trends of forests in the Eastern United States, and the possible role that acid rain may play in such declines, what efforts will the EPA take to fund additional research in this area?

Answer: In FY 1983, EPA initiated a research project in cooperation with Federal Republic of Germany (FRG) to compare forest damage in our two countries. This project was funded in response to a proposal by Professor Arthur Johnson of the University of Pennsylvania (who testified before your Committee on the effects of acid rain on forests).

The basic plan of the activity is for a group of working U.S. and FRG scientists to visit sites of forest damage in each country and to examine the applicability of alternate hypotheses of damage causal mechanisms to the observed site conditions.

Specific scientific questions to be addressed are:

a. Are the diseases reported in the various regions of both countries different diseases due to different origins?

b. Are the diseases the result of the same initial stress but expressed differently due to different ecosystem factors?

c. Is acid deposition a contributing factor in any/all of the cases?

d. If so, by what pathway does it act?

The FRG visit to the U.S. is now scheduled for the week of June 24-30, 1984. The U.S. sites to be visited are Camels Hump, Hubbard Brook, Mt. Mitchell and the Great Smokey Mountain National Park. The U.S. visit to the FRG is scheduled for May 15-22, 1984. The FRG sites to be visited are in the Hils and Harz Mountains near Gottingen, Fichtelgebirge, a Bavarian Forest and the Black Forest.

In FY 1985 we have requested $3.0 million to support the National Forest Survey. Currently, terrestrial classification systems rely to a great extent on soil surveys and utilize gross characteristics based on physical properties and very limited chemistry data. To understand total system response (forests and surface waters) to acidic deposition, a detailed survey of critical soil parameters must be initiated. Concomitant to a soils survey, an inventory of forest composition and productivity estimates will insure a more complete data base in which to describe forest productivity changes. From preliminary surveys and data analysis of the Forest Responses to Anthropogenic Stress (FORAST) project, productivity declines have been documented for particular tree species in some regions. However, the relationship of these damages to acid rain is currently unknown. In addition, identifying the magnitude of the decline on a national scale is not possible at this time because of the limited extent of the FORAST survey.

The National Forest Survey is a three-phase program, to collect existing inventory data on soil and forest types throughout the U.S. Later phases of the program will include site selection, incorporating the findings of the inventory with results of the FORAST program to define terrestrial sensitivity classification. This research will provide an inventory of existing forest damage.

The National Forests Survey will develop preliminary maps illustrating major sensitive terrestrial systems and a report of a survey of major soil and forest types in select regions of the U.S. with quantification of sensitive forest and aquatic resources to acidic deposition. Finally, it will establish long-term monitoring sites to detect changes in sensitive terrestrial systems.

Questions for the Record Submitted by Senator Baucus

TOXIC SUBSTANCES - LEAKING UNDERGROUND STORAGE TANKS (LUST)

Question: The Office of Toxic Substances is looking into the problem of underground storage tanks. What are the main features of this effort and what are the resource levels being used to fund it?

Answer: OTS has initiated work on the problems posed by leaking underground storage tanks. These efforts in FY'84 have been started with carryover resources.

Some features of this effort are:

Chemical Advisory. OTS plans to issue a Chemical Advisory on underground gasoline storage tanks to alert all owners and operators to the nationwide problem of groundwater contamination caused, in part, by gasoline.

National Survey. We are also planning a field survey of all gasoline storage tanks in order to assess the magnitude of underground tank leakage.

Question: What is the timetable for proposing any actions to address underground storage tanks?

Answer: Our timetable is as follows:

Chemical Advisory:	Issue July 1984 Update July 1985
Survey:	September 1984 - August 1985

Question: What authorities under TSCA are being used to address this issue?

Answer: The authority of Section 6(a)(5) is being used to address the leaking underground storage tank issue.

Questions for the Record Submitted by Senator Lautenberg

TOXIC SUBSTANCES - ASBESTOS IN SCHOOLS

Question: I understand that EPA has a rule requiring schools to inspect their buildings for friable asbestos and to notify employees and parents if this material has been found. These steps were to have been completed by June 28, 1983. What has the level of compliance with this rule been?

Answer: According to data compiled on March 2, 1984, EPA has conducted 450 compliance monitoring inspections of Local Education Agencies (LEAs). These inspections include a review of the records at the central LEA Office and visits to some individual schools to evaluate compliance in those schools. EPA has found an overall violation rate of 52% to date. This rate has dropped from nearly 80% at the end of July 1983 to 48% for the week ending March 2, 1984.

Question: What do you think is the reason for this rate of compliance?

Answer: In December of 1983, EPA reviewed 275 inspection reports. Of the LEA's in noncompliance, the following violations were found:

o 50% had either conducted no inspections or insufficient inspections.

o 66% had either not notified or had inadequately notified parents.

o 60% had either not warned or had imporperly warned school employees of identified asbestos hazards.

A reason for non-compliance is that LEAs maybe reluctant to notify parents and employees of the results of inspections that identify the presence of friable materials in schools. The LEA would then have to address the concerns of those parents with children in schools with asbestos-containing materials.

Question: One problem which GAO (General Accounting Office) has identified in the government's asbestos program is the lack of decision-making criteria for the schools. I understand that EPA has found that decisions on abatement can best be made on a case by case basis. If large-scale abatement efforts begin, is EPA in a position to help schools make these individual judgments?

Answer: Since the GAO report was issued (August 1982), the Agency has published a new document entitled "Guidance for Controlling Friable Asbestos-Containing Materials in Buildings."

This document was developed by EPA Headquarters and Regional personnel in conjunction with a panel of national experts on the subject.

It updates our original guidance (published in 1979) and provides a building owner with a systematic approach to dealing with friable asbestos-containing materials. The document emphasizes that decisions regarding abatement are best made at the local level, on a site-specific basis.

As stated previously, EPA estimates 2-5 person-days per site inspection. We have no reliable estimates of the number of schools which require abatement.

Question: How many positions does EPA have in its field office to work on the asbestos problem?

Answer: In 1984, EPA has nine positions in its Regional Offices involved in the asbestos in schools program. The 1985 budget proposal requests an additional 21 positions. These staff will conduct 114 inspections in 1984 and 125 inspections in 1985, and will initiate Federal enforcement actions arising from inspections conducted both by Federal and contractor personnel. There are another three positions at Headquarters.

In addition to the above Federal positions, EPA has contract resources in the amount of $0.5 million. This amount covers an additional 700 compliance inspections in 1984 and also provides technical assistance specifically for the asbestos in schools program. The 1985 budget proposal requests $1.0 million for these activities in 1985. This will increase the number of contract inspections from 700 to 1,400.

Question: Are all these positions currently filled?

Answer: The Federal positions are filled. The contractor has not yet hired all of its inspectors.

Question: And when all filled, are these a sufficient number of positions to provide the necessary assistance to schools if an abatement program gets underway?

Answer: The 1984 positions, and the increased level of staffing requested for 1985, are involved exclusively in conducting compliance monitoring inspections and initiating Federal enforcement actions relating to asbestos in schools. No Federal personnel in the Regional Offices will be available specifically for an abatement program.

Question: The Department of Education stated in a report submitted to Congress last October that abatement costs in schools with a problem would run about $100,000 per school. Recognizing the costs vary with the extent of the problem and the method of abatement, I would like your view of this estimate.

Answer: EPA estimated the cost of removal of friable asbestos-containing materials from buildings ranges between $2-13 square feet. This cost does not include replacement with a substitute insulation material. It is important to note that removal is only one of four options.

As an average cost of an abatement action, the $100,000 figure appears to be low. However, the Agency recognizes the difficulty in determining a figure of this type.

We are currently conducting a survey which will evaluate the effectiveness of the asbestos-in-schools rule. That survey will also collect data on the costs of asbestos abatement. We will be better able to answer this question at that time (results are due in May).

Question: I was pleased to see that EPA considers asbestos in schools one of its 10 priorities. I appreciate your concern about this issue and would like to end this line of questions by asking you to summarize what activities you have already planned in the asbestos field.

Answer: The Environmental Protection Agency's 1985 budget proposal requests an expansion of its compliance and enforcement program for the asbestos in schools rule by increasing its Regional compliance staff by 21 positions and expanding contract support $500,000. In the two-year compliance monitoring program for this rule, EPA plans to inspect LEA's that educate approximately 50% of American school children. The Agency has divided its inspectional resources between inspecting the larger LEA's (where non-compliance will affect many students) and responding to complaints of non-compliance from parents and school employees.

The Office of Pesticides and Toxic Substances (OPTS) will develop new rules for the regulation of asbestos-containing products. When these rules are issued, OPTS will also develop compliance monitoring strategies and enforcement guidance.

OCEAN DUMPING OF SEWAGE SLUDGE AT "12 MILE SITE"

I was very much encouraged by EPA's indication that the agency intends to make a final decision on a sewage sludge disposal site in the near future. Based on testimony before the House Merchant Marine and Fisheries Committee on March 1, and testimony before the Senate Environment and Public Works Committee on on March 2, it appears that EPA is leaning toward designation of the 106 mile site for sewage sludge disposal from New York-New Jersey metropolitan area.

Question: In light of this prospect, has the agency investigated how quickly the transition from dumping at the 12-Mile Site to dumping at the 106-Mile Site could be achieved? I have been advised by the Department of Environmental Protection of the State of New Jersey, and other groups which have explored this issue, that dumping at the 12-Mile Site could be phased out within a year's time, perhaps sooner. What are EPA's projections on this? Would the agency's intent be to phase out dumping at the earliest feasible time? If not, why not? How much will this cost?

Answer: According to federal court orders under which the current ocean sludge dumpers are operating, should the EPA, by its final rule, decline to redesignate the 12-Mile Site for further ocean disposal of municipal sewage sludges, the dumpers, in the absence of judicial stay, will take all steps necessary for a "rapid and orderly removal" of their dumping from the 12-Mile Site, to such alternate site as designated by EPA. Two weeks after the final determination, in the absense of further litigation, a schedule for the rapid and orderly removal of dumping activities from the 12-Mile Site to a designated alternate site is to be provided by the dumpers. The move to an alternate site should take one to two years to complete.

The costs involved in moving sludge dumping activities to an alternate site depend, to a large extent, upon the location of the alternate site. For example, a move to the 106-Mile Site is estimated to result in a three to five fold increase in transportation costs.

Question: EPA has studied the impact of sludge disposal at the 12-Mile Site in its Environmental Impact Statement on this site and in other research and monitoring exercises over the past few years. Can you please summarize the impacts such practices have had on the New York Bight Apex and the advantages of moving the sludge disposal site out to the 106-Mile location?

Answer: The cumulative effects of current and previous waste disposal in the area of the 12-Mile Site have been observed to result in increased occurrence of finrot in fish, lobster die-off, decay of crustacean shells, gill fouling, and protozoan parasites on gill tissue. A decrease in catches of bony fishes in the area also has been observed. Increased phytoplankton blooms, periods of depressed oxygen levels, and fish and shellfish kills have been observed as well. Elevated levels of bacteria and viruses in the water column and bottom sediments have resulted in the area being closed by the Food and Drug Administration to shellfishing. Also, levels of toxic metals and organohalogens in bottom sediments are increased over normal ambient levels. Changes in relative abundance and diversity of species in areas affected by sludge dumping have been observed as have indications of sublethal effects, including bioaccumulation.

The much greater area and depth of the 106-Mile Site provides for greater dispersion and dilution of wastes. Previous studies by NOAA at the 106-Mile Site have indicated that sludge disposed of at that site would be dispersed relatively quickly, with little probability of any permanent impact on relatively sparse marine resources, including bottom organisms.

Question: Can you please describe current EPA research and monitoring programs in the Bight. How much money did the agency spend on these programs during 1984? What programs and resources are projected for the agency for these programs in 1985?

Answer: Ongoing monitoring of the New York Bight, specifically the sewage sludge dump site, is a coordinated effort between permittees, EPA, and NOAA. Compliance monitoring, accomplished by the permittee at the time of dumping, assesses the waste itself as well as its immediate dispersion and dilution, and short-term impacts. Requirements for this compliance monitoring are incorporated as specific permit conditions. EPA, being responsible for overall management of the designated dump sites, provides monitoring through various means, including near-field monitoring and trend assessment surveys. Far-field monitoring is performed by NOAA as part of its ongoing oceanographic research efforts and provides data relative to marine resources and ocean processes on a much wider scale.

In 1984, routine annual monitoring of the New York Bight will cost approximately $500,000. This figure includes ship operation, laboratory support for analyses and regional support. The annual monitoring program remains reasonably constant in scope between the years, so the 1985 level would also be about $500,000.

Question: The State of New Jersey has advocated the preparation by EPA of a New York Bight Apex Restoration Plan and a regional multi-media assessment of various ocean and land-based sludge disposal options. What resources would be required by the agency to conduct these two investigations? What is a reasonable time frame for conducting such studies?

Answer: EPA's Assistant Administrator for Water, in testimony on March 1, 1984, before the Subcommittee on Oceanography of the House Merchant Marine and Fisheries Committee, indicated that in the opinion of the EPA sufficient planning had been completed and that comprehensive control measures were underway that would result in significant restoration of Bight Apex waters. Mr. Ravan also indicated that there was no need to conduct any more studies on the Apex. However, we had not been requested to comment on a multimedia study to enhance our ability to balance impacts across media.

EPA currently has a broad study underway by its sludge task force to develop guidance on a variety of sludge disposal options and processing. It is possible that additional studies could be required to improve our technical abilities to make multimedia assessments, however, we have not yet defined a scope of work or determined appropriate resources to conduct such studies should they be required.

Question: What are the most successful sludge disposal strategies pursued by other municipalities, especially those with sludges relatively high in metals and other toxic contaminants? What strategies have been followed by other municipalities that complied with the original 1981 deadline for ceasing ocean disposal of sewage sludge?

Answer: An estimated 6-7 million dry tons of sewage sludges are generated yearly at municipal wastewater treatment plants in the United States. These sludges are primarily disposed of by thermal reduction (27%), landfilling/lagooning (27%), landspreading (42%), and ocean disposal (4%). Ocean disposal, in this context, includes discharge through outfalls, as in the Los Angeles and Boston metropolitan areas, and dumping by vessel, as in the New York/New Jersey metropolitan area.

Over 100 facilities in the New York/New Jersey metropolitan area, which at one time ocean dumped sewage sludge have instituted viable landbased disposal options. These options include landfilling, composting, and incineration. It should be noted, however, that those facilities which have been able to phase-out ocean dumping had sludges which were generally not as contaminated as those of the remaining ocean dumpers.

Question: What information does the EPA have in-house on the extent to which establishing pre-treatment programs in the New York/New Jersey area will contribute to easing sludge disposal problems?

Answer: EPA's pretreatment program requires that municipal sewage treatment plants develop and implement pretreatment plans for their industrial contributors. All of the entities which currently ocean dump their sludge are developing these pretreatment programs. When these plans are implemented, the contaminants in sludge should decrease.

In general, it is believed that pretreatment of industrial waste will increase the available sludge management options, including incineration, and land application.

Question: Many scientists have said that the New York Bight Apex is among the most distressed bodies of water in the world. Please summarize the documented impacts of pollution in the Bight on marine life. In particular, what evidence exists that pollution in the Bight has destroyed marine habitat? Poisoned fish? Interfered with reproduction? Impaired feeding? Led to accumulation of toxic metals and organic substances in marine species? Reduced resistance to disease and parasites? Interfered with migration?

How far down the New Jersey shore have these trends been detected? What is the explanation for these phenomena?

Answer: Although the New York Bight Apex is highly distressed, there are other areas of the world which are equally or more so distressed. Regardless, environmental impacts of pollution on marine life in the Bight Apex have been summarized in an answer above, which is a direct reference to Mr. Steven Schatzow's (Director, Office of Water Regulations and Standards) testimony before the House Merchant Marine and Fisheries Committee on May 25, 1983. Impacts are further documented in the following publications and in publications cited therein:

1) EPA Final Environmental Impact Statement on Ocean Dumping of Sewage Sludge in the New York Bight - September 1978.

2) EPA Final Environmental Impact Statement for the New York Dredged Material Disposal Site Designation - August 1982.

3) Camp Dresser & McKee, "Technical Review of the 12-Mile Sewage Sludge Disposal Site" (EPA Contract 68-01-6403).

4) Mayer, Gary, "Ecological Stress and the New York Bight: Science and Management", Estuarine Research Foundation, 1982.

5) Technical documents submitted by New York City and others in support of petitions to redesignate the 12-Mile Site.

6) Various EPA and NOAA studies.

Regarding impacts along the New Jersey shore, for the most part impacts are limited to the Bight Apex in an area immediately offshore of New York Harbor. Occasionally, such as during the 1976 dissolved oxygen depression incident, impacts occur outside the Bight Apex and along the New Jersey shore.

Question: Do you think it would be helpful for the EPA to establish sludge quality standards to supplement national categorical industrial pretreatment standards, as recommended by the State of New Jersey?

Answer: EPA is presently developing a comprehensive sludge program using the authority of section 405 of the Clean Water Act. The program consists of two major regulatory efforts: (a) State management regulations, and (b) technical regulations on the various reuse and disposal options. In late 1986, EPA expects to propose a series of sludge reuse and disposal regulations for distribution and marketing, land application to food and non-food chain crops, landfill, incineration, and ocean dumping.

Question: When will EPA complete its development of ocean dumping regulations in relation to the Sofaer decision?

Answer: In response to Judge Sofaer's decision, EPA has drafted minor revisions to the ocean dumping regulation. The Agency expects to propose minor revisions in late April, 1984. However, a comprehensive regulation will be developed to include additional issues, i.e., incineration at-sea. The Agency expects to issue a comprehensive revision to the ocean dumping regulation by January, 1985.

DISCHARGE OF RAW SEWAGE INTO THE HUDSON BY NEW YORK CITY

Question: As you know, Mr. Administrator, residents and officials in the State of New Jersey continue to be distressed at the ongoing discharge of large amounts of raw sewage into the Hudson and East River by the City of New York. Each day, the City discharges approximately 220 million gallons of raw sewage into these waters.

I understand that EPA's position is that the City is technically in compliance with the Clean Water Act because it is constructing sewage treatment plants to treat these waters under a court-ordered consent decree.

Can you please state for the record what the initial deadlines from completion of these plants the North River and Red Hook plant were? Why did EPA renegotiate the City consent decree to further delay these original deadlines? Is the City currently meeting the schedule for their construction Do you think the plants will be completed on time?

Answer: In 1976 EPA-Region II took enforcement action against the City of New York for failure to construct the North River and Red Hook plants. This action resulted in the original consent judgment which put NYC on a schedule to complete the North River project by August 1986 and Red Hook project by December 1984.

Slippage of the schedules set up in the 1977 Consent Decree occurred for a variety of reasons including engineering problems for both projects, bidding problems for the Red Hook foundation, and the emerging NYC financial crisis.

On August 4, 1978, EPA requested the U.S. Attorney to institute the necessary proceedings to compel the City to comply with the Consent Decree. By this time, it was apparent that the time remaining was insufficient to meet the existing deadlines for completion of the two projects and that new schedules were required. The 1977 Consent Decree did not include stipulated damages for missed dates.

A modification to the Consent Decree was entered by the court on December 6, 1979. This modification:

- changed the schedule for the planning, design and construction of the North River and the Red Hook plants. The new schedule changed the completion and start up of secondary treatment at North River from August 1986 to November 1987 and for Red Hook from December 1984 to June 1987.

- incorporated planning of the North River Park,

- defined stipulated penalties for failure of the City to meet any milestone dates,
- provided for the appointment and defined the authority of a Special Master to oversee for the court the progress of these projects.

In February 1981, a portion of Fiscal Year 1980 and 1981 construction grant funds were rescinded and future years authorizations were reduced. It was the contention of NYC that its finanical condition would not allow the City to support construction and this schedule.

Further compounding the situation were the Amendments of 1981, whereby municipalities were again able to apply for 301(h) waivers for secondary treatment. NYC indicated that they would apply for such a waiver and NYC believed it would be unreasonable and unjustifiable to require them to proceed with the construction of multimillion dollar secondary facilities that might not be required. EPA now felt that because of the obvious delays which would occur in deciding the full secondary treatment issue, it would be wise to modify the consent decree in a manner which would insure specific levels of treatment by fixed dates.

Under the terms of the revised schedule NYC is to complete the advanced preliminary treatment facilities at North River and start up such facilities by May 1, 1986 and full, secondary treatment facilities by May 1, 1991. Advanced preliminary treatment is scheduled to come on line at Red Hook by May 1, 1987 with secondary treatment scheduled for May 1, 1989. The City formally notified EPA of its intention to apply for 301(h) waivers from secondary treatment at its North River and Red Hook STP's.

In December 1982, a revised Consent decree was agreed to by all parties and sebsequently filed in U.S. District Court on December 30, 1982.

This modification to the Consent Decree allows the two projects to proceed while the 301(h) review process is undertaken and ensures the attainment of some level of treatment (advanced preliminary) within a specified time frame.

To date, all milestone dates defined in the revised Consent Decree have been met.

Due to the availability of additional funds, NYC is presently preparing a plan for accelerating the construction of the North River and Red Hook projects. This acceleration would potentially bring North River to secondary treatment 2 years ahead of schedule and Red Hook 2 months ahead.

Question: What are the environmental and health effects of these raw discharges into the Hudson and East Rivers? What is the effect on fisheries resources, particularly off the shore of New Jersey?

Answer: By way of background, during 1981 and for most of the 1970's the New York Harbor complex received an average dry weather wastewater flow (both treated and untreated) of approximately 1.97 billion gallons/day (BGD). 1340 MGD was contributed by the 12 POTW's in New York City. A total of 203 MGD of relatively low strength raw wastewaters entered from the North River and Red Hook areas. 426 MGD of secondary and partially treated effluent was contributed by the 20 major POTW's located in New Jersey along the Harbor waters or tributaries thereof.

Although the New Jersey dischargers in 1981 contributed a significantly lesser total flow rate than that from the New York City sources, the total organic load from the New Jersey sources (909,000 lbs/day BOD), however, was more tha twice the total organic load from all the treated and raw discharges located in New York City (427,000 lbs/day BOD). This was due to:

a. the influent BOD (and probably toxicant) characteristics at most of the New Jersey POTW's was (and probably still is) significantly higher than for the New York City facilities, and

b. all 12 New York City POTW's while 6 of the 20 major New Jersey POTW's were providing biological treatment in that year.

In 1981, the total organic loading from the North River and Red Hook raw discharges represented approximately 191,000 lbs/day (or 14% of the total organic load to the Harbor from all dry weather sources). The Passaic Valley Sewerage Commissioners (PVSC) POTW in New Jersey (which was achieving negligible organic removals) represented approximately 700,000 lbs/day BOD (or 51%) of the total organic load to the Harbor in that year. Since 1981, the PVSC facility which represented the single largest organic load to the Harbor has been upgraded to secondary treatment such that the total dry weather organic loads from New York and New Jersey entering the Harbor are now comparable.

At present, approximately 150 and 53 MGD of raw wastewaters are entering New York Harbor from the North River and Red Hook areas, respectively. The major impacts resulting from these raw discharges have been high bacterial levels and aesthetic impairment. The bacterial loadings from these two (2) areas have contributed to beach closures along the northeast shore of Staten Island and near Coney Island, New York and shellfish bed closures in both Lower New York Bay and Raritan Bay.

Question: Under the protection of the consent decree, New York City has permitted large new residential and commercial facilities to come on line without adequately providing for treatment of their wastewaters. In contrast, the State of New Jersey has engaged in tough negotiations with municipalities contemplating new facilities, to plan for wastewater treatment. In fact, numerous sewer hook-up bans exist in New Jersey.

Continuation of unequal rules on the two sides of the River could lead to a competitive disadvantage for New Jersey, which is already paying for the City's practices by threats to the State's tourist and fisheries industries.

I understand that E.P.A. is not enforcing sewer bans, on its own, on either side of the Hudson River. Given the situation in the New York-nothern New Jersey region, what authority does EPA have to enforce sewer bans on new sources when no treatment facilities exist at all to treat new wastes? What about in cases where primary; but not full secondary, treatment is being provided?

Answer: The areas in which new facilities are being constructed in New York City, within the areas with raw discharges, are generally characterized by declining populations and wastewater flows. The New Jersey sewer extension ban program generally does not restrict development within those facilities that provide primary treatment and are well operated.

EPA or its delegated states issues NPDES permits for all wastewater discharges. In the case of the New York City raw discharges, permits have been issued which require the construction of wastewater treatment facilities that will meet the required standards (secondary treatment). EPA can seek court action to limit the discharge of additional pollutants for a facility that violates its permit requirements under subsection 402(h) of the Clean Water Act. Therefore, while EPA has no direct authority to limit or exclude flows from new developments within the areas of New York City that discharge raw wastewater but the agency can seek to have the courts impose such restrictions.

Similar to the above, EPA has no direct authority to limit new flows where primary treatment is being provided, but EPA can seek to have the courts impose such restrictions under subsection 402(h) of the Clean Water Act.

Question: Why has EPA not prevented additional pollutants from entering New York City's sewer system in the absence of operating sewage treatment plants?

Answer: EPA has sought to obtain compliance with the provisions of the Clean Water Act for the New York City discharges. At present nine sewage treatment plants are designed to provide secondary tratment. Three others are providing intermediate treatment (between primary and secondary). Two of the intermediate facilities are being upgraded to secondary. Two new treatment facilities are being constructed to eliminate the remaining raw discharges under consent decrees. EPA did not seek to limit new development within the areas of raw discharges because:

- The population projections and hence sewage flows for those areas in Manhattan are declining and will remain stable (less than 5% increase) in Brooklyn (see attached tables).
- Impositions of such limitations on a building by building basis would be very difficult to enforce. New York and New Jersey connection limitations are generally imposed by limiting new extensions to existing sewers rather than limiting individual connections to existing sewers.
- The Agency views the use of Section 402(h) as extremely sensitive and utilizes it in cases of extreme environmental degradation or in cases where the permittee is not being cooperative. NYC was being cooperative in abating pollution problems. It was the Region's opinion that rather than seek such a ban in NYC through lenghthy, expensive litigation, the environment would be best served, in the most timely manner, through the development of a judicial order on consent.

Question: What other municipalities are currently being permitted to add to raw dischargesinto waterways? Are there instances where EPA has used its authority to enforce sewer ban hook-ups to prevent increases in raw sewage discharges?

Answer: There are some municipalities in Puerto Rico which have raw discharges. and have at least primary facilities under construction but there are generally no others in Region II.

EPA has sought to utilize the provisions of Section 402(h) through court action in a handfull of cases nationwide. There have not been as of this date any cases of this type in Region II.

Question: I understand that the Newtown Creek facility in Brooklyn, which is scheduled to receive additional wastes from new sources currently under construction in New York City, is not operating at full secondary treatment. Please describe the level of treatment currently being provided by this plant. What are the prospects for upgrading this plant to full secondary treatment in the forseeable future? Why is EPA permitting increases in load on this plant when it is not providing secondary treatment? Do you believe the Newtown Creek facility can accommodate the additional load projected for it over the next few years?

Answer: Newtown Creek currently provides modified aeration for removals of 50%-60% BOD/SS; Newtown Creek is the subject of a secondary treatment waiver request as provided for by the Congress under Section 301(h) of the Clean Water Act; $300 million for upgrading is identified in the planning portion of the State's Priority List but funding is contingent upon approval of the project facility plan. A facility plan has been submitted to the State but approval awaits the outcome of the 301(h) waiver; this plant is currently in compliance with an interim SPDES permit issued by the State. The State has approved of the less than secondary treatment level by supporting the 301(h) waiver request; and concern has been expressed that the sewage flow from the Battery Park City development in Manhattan will overload the Newtown Creek treatment plant. The future flow from Battery Park City in expected to be 1.2 million gallons a day (mgd) while the treatment plant has a design capacity of 310 mgd and receives a dry weather flow presently from 275 to 291 mgd. Therefore, the Newtown Creek treatment plant has sufficient capacity to handle the flow from Battery Park City at current treatment levels.

Question: Numerous 301(h) waivers have been requested for plants in the New York-New Jersey metropolitan area? Please list the applications which EPA has received from the New York - New Jersey metropolitan region. What is their current status?

Answer: As of December 1983, EPA-Region II had received a total of 45 301(h) waiver applications; the following 5 applications were voided since they did not comply with the eligibility requirements for such waivers:

- Shelter Island, NY - applicant notified 3/8/83
- North Bergen Central, NJ - appolicant notified 3/8/83
- Secaucus, NJ - applicant notified 3/17/83
- Perth Amboy, NJ - applicant notified 4/8/83
- Jersey City Westside, NJ - applicant notified 4/8/83

At present 40 viable 301(h) applications have been submitted to Region II.

Of the 45 total applications, 18 were submitted for facilities in the New York Harbor area as listed on Table 1 and shown on Figure 1.

EPA-Region II has voided 4 of these applications and tentatively denied the other 14 of these waiver requests subsequent to either a State and/or Interstate Sanitation Commission (ISC) decision to deny the request.

The reason(s) for which each of these applications was denied are noted on Table 2.

Under the 301(h) regulations each of the 14 viable applications to the Harbor complex has the right to submit a revised application within one (1) year from the date that EPA denies their initial application. All of these applicants have indicated that they plan to re-apply for waivers from secondary treatment at least for the non-summer periods of the year.

At present these 14 applicants are in the process of preparing revised 301(h) applications which they intend to re-submit to their respective state agencies and EPA.

The present status of these 14 applications is summarized in

Table 3.

Question: When does EPA expect to make final decisions on these applications?

Answer: The revised applications for many of the New York-New Jersey metropolitan discharges must be re-submitted by June 1984 in order to comply with the one (1) year re-submission deadline noted in the Section 301(h) regulations.

EPA will, by late 1984 or early 1985, be able to make final decisions on those applications which are submitted by the June 1984 deadline, which do not propose any new studies to support the waiver request and which receive timely State (and ISC) determinations in accord with the 301(h) regulatory deadline(s) for their review. Also, applicants not receiving favorable State, and, where appropriate, ISC action, would immediately go to final decision (rejection). In those cases where additional studies are undertaken by applicants, final decisions will occur in 1986.

Question: What demonstration will the agency require to justify these 301(h) requests?

Answer: Section 301(h) of the Clean Water Act and pertinent regulations allow for waivers to secondary treatment by POTW's if the applicant meets the following:

a) Their revised application is re-submitted within one (1) year after EPA's tentative decision to deny their initial 301(h) application; for most of the New York - New Jersey metropolitan area applicants deadline is June 27, 1984.

b) The State and any applicable interstate agencies (e.g., ISC) certifies acceptance of the request.

c) The applicant relates to a discharge to marine waters.

d) There is an applicable water quality standard specific to the pollutant for which the modification is requested.

e) Such modified requirements will not interfere with the attainment or maintenance of public water supplies and the protection and propagation of a balanced indigenous population and allows recreational activities.

f) The applicant has established a system for monitoring the impact of such discharge on a representative sample of aquatic biota, to the extent practicable.

g) Such modified requirements will not result in any additional requirements on any other point or nonpoit source.

h) All applicable pretreatment requirements for sources introducing waste into such treatment works will be enforced.

i) The applicant has established a schedule of activities to eliminate the entrance of toxic pollutants from nonindustrial sources into such treatment works.

j) There will be no new or substantially increased discharges from the point source of the pollutant to which the modification applies above that volume of discharge specified in the permit.

k) The application complies with all other pertinent Federal, State and local statutes and Executive Orders.

Question: Please summarize the findings available to the agency, from the Interstate Sanitation Commission and other sources, on the cumulative regional impacts of granting the requested 301(h) waivers on water quality.

Answer: In reviewing the initial 18 applications in the New York metropolitan area, the ISC completed extensive water quality model runs to evaluate the instream impact of these proposed treatment levels.

Based upon these model runs, ISC determined that the cumulative effect of the proposed 18 waiver requests in the Harbor complex would contravene instream standards during the summer months and some would also violate the ISC effluent regulations and should therefore be denied.

The final report issued by ISC after its review of the initial 18 applications for the metropolitan region concluded that:

a) Secondary treatment would be required for all these applicants during the summer months in order to comply with instream dissolved oxygen (DO) standards.

b) Waivers from secondary treatment during the winter months might comply with instream DO standards, however, further studies would be necessary to refine the model accuracy for winter DO projections and to evaluate potential bacterial and toxicant effects which might result from such seasonal waivers.

ISC has not had the opportunity to review or comment on any of the revised applications to the Harbor complex since no re-submissions have been received to date from the initial applicants.

Question: Combined sewer overflow (CSO) is a major pollution problem in the New York-New Jersey region. What are the most cost-effective strategies of mitigating this problem? Have any demonstration projects been implemented to abate combined sewer overflow in the United States? Aboard? Does EPA have any plans to address this problem?

Answer: Depending on site specific situations and the water quality goals (e.g., swimming and fishing), the available cost-effective CSO control technologies include: storage (utilizing existing storage in the sewer line or off-line storage such as existing quarries) plus treatment of stored CSO at the treatment facility during dry weather, screening and disinfection at overflow points for protection of swimming and shellfishing, sewer separation for small facilities, use of high rate filtration process at CSO overflow points, etc.

Studies undertaken in the New York City 208 program have reached the following conclusions about the Harbor complex:

1. The major impacts of CSO's on water quality in the Harbor complex are bacterial contamination and aesthetic impairment;

2. CSO's have only a minor impact on average instream dissolved oxygen levels (approximately 0.1 mg/l deficit).

3. The high bacterial levels caused by CSO's are rather localized (e.g. 2-3 miles from source) and transient (lasting 2-3 days after storm events).

4. CSO's located along the Manhattan and Brooklyn shoreline have contributed to excess coliform levels along Staten Island beaches.

5. CSO's in the East River impair bathing in the western Long Island Sound.

6. The most feasible/cost-effective/short-term control measures for CSO control in New York City appear to be the following:

   a. Regulatory repair (especially to abate dry weather leakage).
   b. Dry weather sewer flushing to reduce sediment loads during storm events.
   c. Tide gate repair.

   d. In-line storage of storm surges and subsequent dry weather feeding into the treatment facility (in service districts where sewer hydraulics and plant capacity allow such procedures). Aside from those largely non-structural abatement measures, New York City has constructed with federal aid the Spring Creek facility adjoining Jamaica Bay which receives and retains storn surges to allow subsequent treatment.

Most of the approximately 20 service districts in New Jersey which adjoin the Harbor complex are also served by combined sewer systems which significantly affect the Passaic and Raritan Estuaries and other tidal tributaries to the Harbor. Given the generally higher strength wastewaters generated by these districts (as compared to New York City service areas), CSO's in these zones also impact the Harbor complex. Measures which will be needed to abate CSO's from these New Jersey sources must be determined by future studies for the individual sewer districts involved.

EPA has had 300 demonstration projects since 1965. Currently six demonstration projects are active, including three in New York City, one each in Newberg, New York; Hagerstown, Maryland; and Salem, Oregon. We have no information on demonstration projects abroad.

The Agency's strategy for addressing CSO needs is based on the 1981 amendments to the Clean Water Act (P.L. 97-117). The Act provides three ways to fund correction of CSO's. Section 201(g)(1) provides that CSO's are eligible for grants for the construction of municipal wastewater treatment facilities from funds available under section 205 until September 30, 1984. After that CSO's will no longer be an eligible category, however, the Governor may recommend the use of up to 20 percent of the State's annual allotment for previously eligible categories, such as CSO's.

Second, section 201(n)(2) creates a special fund to correct CSO's into marine bays and estuaries where significant usage of the waters for shellfishing and swimming would not otherwise be possible. This fund, when is administered by EPA Headquarters, has received appropriations totalling $60 million for fiscal years 1983 and 1984.

Finally, beginning October 1, 1984, section 201(n)(1) allows use of section 205 funds in the State's regular allotment to correct CSO's not eligible under section 201(n)(2). Such projects may receive grant funds only if the State designates the receiving water has high priority and demonstrates that significant usage of the waters for fishing and swimming would not otherwise be possible.

Question: The Owl's Head and Coney Island treatment plants in Brooklyn are also performing at less than secondary treatment. Please describe treatment levels at these plants and prospects for upgrading them.

Answer: Both plants currently provide modified aeration for removals of 50%-60% BOD/SS; New York City is currently receiving State and Federal funding to upgrade both plants to secondary treatment; the upgrading of Coney Island is expected to cost an additional $352 million of which the federal share will be $264 million (and be completed in 1993); the upgrading of Owl's Head is expected to cost an additional $267 million of which the federal share will be $196 million (and be completed in 1995); and to date $112 million in federal funds have awarded to Coney Island and $130 million have been awarded to Owls' Head.

TABLE 1.6

NEW YORK CITY POPULATION
1975 ESTIMATES AND 208 BASELINE PROJECTIONS
(BY BOROUGH AND TREATMENT PLANT AREA)

Water Pollution Control Plant	1975	1980	1985	1990	1995	2000
Bronx						
Wards Island	675,100	658,200	659,000	665,900	672,800	679,700
Hunts Point	717,200	694,200	680,800	676,200	671,500	666,800
Total*	1,392,300	1,352,400	1,339,800	1,342,100	1,344,300	1,346,500
*Includes Marble Hill	(7,000)	(6,600)	(6,900)	(6,700)	(6,600)	(6,500)
Brooklyn						
Newtown Creek	544,200	528,100	527,900	519,000	510,100	500,900
26th Ward	281,700	278,900	270,600	260,200	250,100	240,100
Coney Island	692,900	688,600	694,100	685,300	676,500	667,300
Owls Head	720,800	723,300	727,900	723,500	719,000	714,200
Red Hook	244,700	248,900	255,500	258,000	260,300	262,500
Total*	2,484,300	2,467,800	2,476,000	2,446,000	2,416,000	2,385,000
*Includes Governors Island	(3,970)	(3,970)	(3,970)	(3,970)	(3,970)	(3,970)

Note: Numbers may not add up due to rounding.

TABLE 1.6 (cont.)

Water Pollution Control Plant	1975	1980	1985	1990	1995	2000
Manhattan						
Wards Island	487,200	480,300	482,200	466,600	451,000	435,600
Newtown Creek	424,100	432,300	444,600	433,600	422,500	411,200
North River	530,500	530,000	529,300	513,700	498,100	482,500
Total*	1,441,800	1,442,600	1,456,100	1,413,900	1,371,600	1,329,300
*Not incl. Marble Hill, Gov. Is., Roosevelt Is.	(12,600)	(18,900)	(18,900)	(21,100)	(23,400)	(25,700)
Queens						
Newtown Creek	116,100	113,800	113,100	113,500	113,900	114,300
26th Ward	56,500	55,200	55,800	55,800	55,900	55,900
Tallmans Island	405,000	414,500	412,400	417,400	422,400	427,400
Jamaica	573,500	568,100	570,900	572,900	574,900	576,900
Bowery Bay*	698,500	712,200	718,400	726,600	734,800	743,000
Rockaway	118,700	116,000	115,600	117,000	118,300	119,600
Total	1,968,300	1,979,800	1,986,200	2,003,200	2,020,200	2,037,100
*Incl. Roosevelt Is.	(1,700)	(8.100)	(8,100)	(10,500)	(12,800)	(15,200)
Incl. Broad Channel	(2,800)	(2,800)	(2,800)	(2,800)	(2,800)	(2,800)

Note: Numbers may not add up due to rounding.

TABLE 1.6 (cont.)

Water Pollution Control Plant	1975	1980	1985	1990	1995	2000
Staten Island						
Port Richmond	171,600	180,000	191,000	196,000	201,000	205,000
Oakwood Beach	156,600	185,000	229,000	269,000	309,000	351,000
Total	328,200	365,000	420,000	465,000	510,000	556,000
City Total	7,614,900	7,607,600	7,678,100	7,670,200	7,662,100	7,653,900
Totals for Treatment Plants Listed Under Two Boroughs						
Wards Island (Bx. & Mn.)	1,162,300	1,138,500	1,141,200	1,132,500	1,123,800	1,115,300
Newtown Creek (Bk., Mn., Qn.)	1,084,400	1,074,200	1,085,600	1,066,100	1,046,500	1,026,400
26th Ward (Bk. & Qn.)	338,200	334,100	326,400	316,000	306,000	296,000

Note: Numbers may not add up due to rounding.

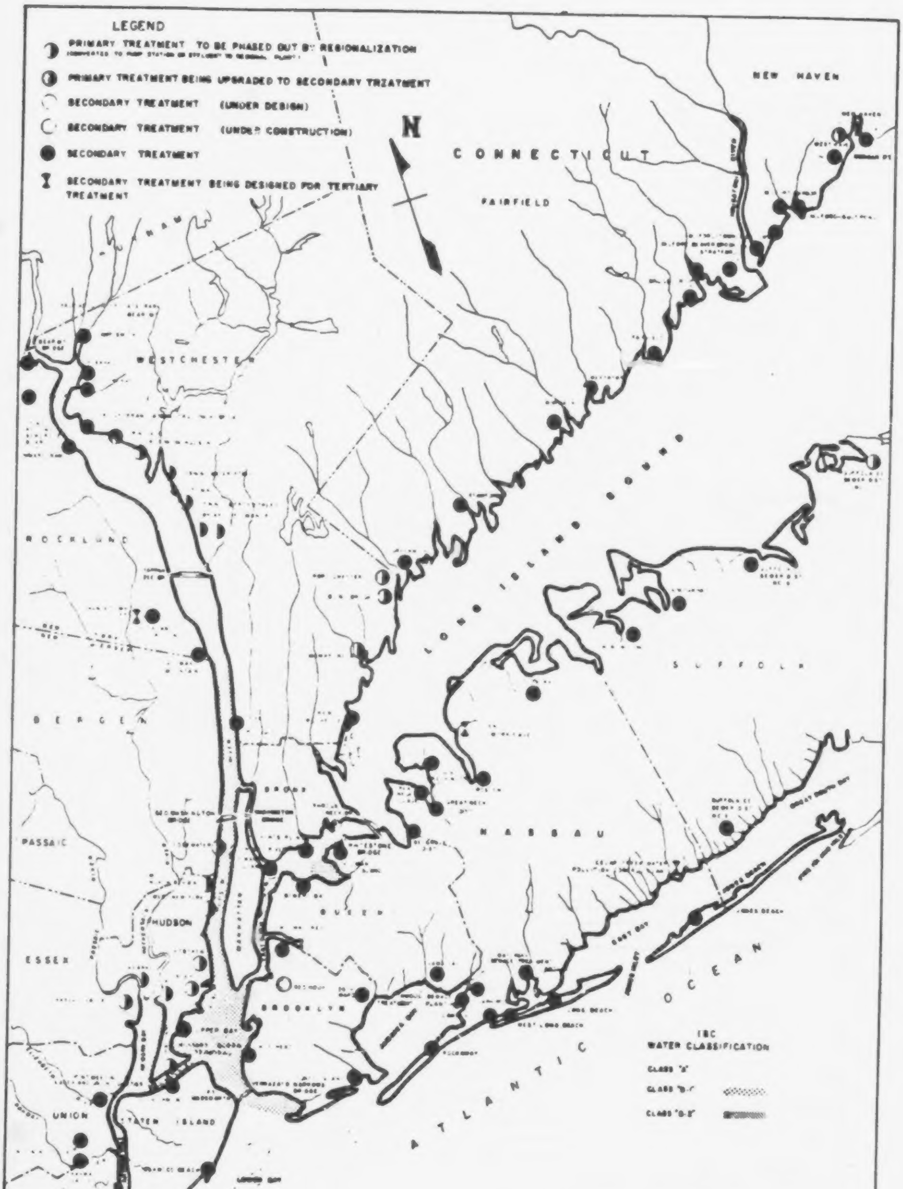
LEGEND
PRIMARY TREATMENT TO BE PHASED OUT BY REGIONALIZATION (CONVERTED TO PUMP STATION OR EFFLUENT TO REGIONAL PLANT)
PRIMARY TREATMENT BEING UPGRADED TO SECONDARY TREATMENT
SECONDARY TREATMENT (UNDER DESIGN)
SECONDARY TREATMENT (UNDER CONSTRUCTION)
SECONDARY TREATMENT
SECONDARY TREATMENT BEING DESIGNED FOR TERTIARY TREATMENT
N
CONNECTICUT
NEW HAVEN
FAIRFIELD
WESTCHESTER
ROCKLAND
BERGEN
PASSAIC
ESSEX
HUDSON
UNION
STATEN ISLAND
MONMOUTH
BRONX
MANHATTAN
QUEENS
BROOKLYN
NASSAU
SUFFOLK
LONG ISLAND SOUND
ATLANTIC OCEAN
ISC WATER CLASSIFICATION
CLASS "A"
CLASS "B-1"
CLASS "B-2"
WASTEWATER TREATMENT PLANTS IN THE INTERSTATE SANITATION DISTRICT
NEW YORK NEW JERSEY CONNECTICUT
SCALE IN MILES
1980

TABLE 1

New York Applications

- Newtown Creek WPCP
- North River WPCP
- Hunts Point WPCP
- Wards Island WPCP
- Oyster Bay STP
- Port Washington WPCD
- Long Beach WTP
- Mamaroneck WPCP
- Red Hook WPCP
- Bowery Bay WPCP
- Cedarhurst WPCD
- West Long Beach WTP
- Belgrave WPCP
- Great Nect STP

New Jersey Applications

- Middlesex County STP
- North Bergen - Woodcliff
- Bayonne STP
- Edgewater STP
- Hoboken STP
- Jersey City - East Side
- West New York MUA
- Passaic Valley Sewerage Commissioners

Table II

Applicant	ISC Determination	Reason	State Determination NY/NJ	Reason
Edgewater STP	Denied	1,2,4,5,6	NJ Extension	9
West New York MUA	Denied	1,2,4,5,6	NJ Extension	9
City of Bayonne	Denied	1,2,4,5,6	NJ Extension	9
Jersey City SA East STP	Denied	1,2,4,5,6	NJ Extension	9
Jersey City SA West STP	Denied	1,2,4,5,6	NJ Denied	10
North Bergen MUA Woodcliff STP	Denied	1,2,4,5,6	NJ Extension	9
City of Hoboken	Denied	1,2,4,5,6	NJ Extension	9
Passaic Valley SA	Denied	2,4,5,6	NJ Extension	9
Middlesex County UA	Denied	1,2,4,5,6	NJ Extension	9
Secaucus MUA STP	N/A	7	NJ Denied	10
North Bergen MUA Central STP	N/A	7	NJ Denied	10
Cape May County MUA Seven Mile Beach/ Region	----	----	NJ No Determination	8
Cape May County MUA Wildwood/Lower Region	----	----	NJ No Determination	8
Wards Island	Denied	1,2,4,5,6	NY Denied	8,11
Perth Amboy WPCP	N/A	7	N/A	
Belgrave WPCP	Denied	2,4,5,6	NY Positive Determination	
Village of Great Neck (Inc.)	Denied	2,4,5,6	NY Positive Determination	
Village of Ocean Beach Sewage Treatment Plant	N/A	----	NY No Determination	8

Table II

Application	ISC Determination	Reason	State Determination NY/NJ	Reason
Oyster BAy Sewer District Sewage Treatment Plant	Denied	2,4,5,6	NY Positive Determination	
Port Washington Water Pollution Control District	Denied	2,4,5,6	NY Positive Determination	
Long Beach Wastewater Treatment Plant	Denied	2,4,5,6	NY Positive Determination	
West Long Beach Treatment Plant	Denied	2,4,5,6	NY Positive Determination	
Village of Cedarhurst Water Pollution Control District	Denied	2,4,5,6	NY Denied	11
Newtown Creek Water Pollution Control Plant	Denied	1,2,4,5,6	NY Awaiting Revised Application	
North River WPCP	Denied	1,2,4,5,6	NY Denied	8,11
Hunts Point WPCP	Denied	1,2,4,5,6	NY Denied	8,11
Red Hook WPCP	Denied	1,2,4,5,6	NY Denied	8,11
Bowery Bay WPCP	Denied	1,2,4,5,6	NY Denied	8,11

1) Contravention of DO Standards implied
2) ISC effluent limitations violated
3) Contravention of DO standards stated
4) Impact of Discharge can not be isolated
5) Potential for winter waiver is indicated
6) Potential impact on treatment levels for other point and non-point sources
7) Application not accepted by US EPA
8) Lack of Data
9) Awaiting decision of New York Harbor Water Quality Steering Committee
10) Waivers precluded by state laws, regulations or conclusions of 303(e) or 208 plans
11) Violations of State Water Quality Classifications and Standards

N/A = No Action

PUBLIC AND SCIENTIFIC AFFAIRS BOARD
AMERICAN SOCIETY FOR MICROBIOLOGY

1913 I STREET, N.W.
WASHINGTON, D.C. 20006
TELEPHONE: CODE 202, 833-9680

April 16, 1984

Mr. Bailey Guard
Senate Committee on Environment and
Public Works
SD-410 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Mr. Guard:

This is to request that the attached letter regarding the Public and Scientific Affairs Board's comments on the Administration's budget proposal for exploratory research at the Environmental Protection Agency (EPA) in Fiscal Year (FY) 1985, be inserted in the hearing record for the EPA's Fiscal Year 1985 authorization. The letter was sent to members of the Committee on April 16.

Sincerely,

Janet Shoemaker

Janet Shoemaker
Assistant Director
Public Affairs

JS/jt
enclosure

PUBLIC AND SCIENTIFIC AFFAIRS BOARD
AMERICAN SOCIETY FOR MICROBIOLOGY

1913 I STREET, N.W.
WASHINGTON, D.C. 20006
TELEPHONE: CODE 202, 833-9680

April 16, 1984

The Honorable Robert T. Stafford
Chairman, Senate Committee on Environmental and
Public Works
SD-410 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Chairman Stafford:

The Public and Scientific Affairs Board (PSAB) of the American Society for Microbiology (ASM) wishes to submit the following comments on the Administration's budget proposal for exploratory research at the Environmental Protection Agency (EPA) in Fiscal Year (FY) 1985 for the record and consideration by the Committee on Environment and Public Works.

First, we would remind you that the ASM is the largest single biological life science organization in the world with an active membership of over 31,000 microbiologists working in academic, industrial, and government laboratories throughout this country and elsewhere. Since some microorganisms are agents of pollution and others contribute to pollution abatement, the ASM and its membership have conscious and continuous interest in EPA research functions and programs. The ASM is of the firm opinion that a national strategy for environmental protection must include as an essential element a well-funded, long-range program of exploratory research based on a system of peer review to assure scientific merit. This opinion prompted us to write previously expressing distress at the fate in recent years of the EPA effort in research and development.

The EPA grants program, which has experienced drastic reductions in funding, is of particular interest to our membership. It was budgeted originally at $26 million per year. Although this amount is not at all generous, considering the complexity of the country's environmental problems, it has experienced shrinkage at a degree strikingly clear from data tabulated below:

Research Grant Support

Year	Millions	New Awards
1981	$21.8	-
1982	$13.0	100
1983	$ 9.5	45
1984	$ 9.5	26
1985	$10.0	36

In the five year interval of 1981-85, dollar support for research grants has decreased to less than one-half of its initial level and numbers of new awards have decreased 64 percent. We are convinced that those reductions in money and in numbers of new awards have discouraged highly qualified investigators from addressing environmental problems of public importance, and prompted them to turn away from the EPA and to look elsewhere for recognition and support. Nevertheless, with the reappointment of William D. Ruckelshaus as Administrator, we, as many others, believe things at the EPA will change and change rapidly. We are impressed by his accomplishments as first Administrator of the Agency, and recognize that from the time of his reappointment, Mr. Ruckelshaus has worked with some success to strengthen the EPA research budget.

We are pleased that the President's FY 1985 budget proposal would increase support for EPA research and development by approximately $33 million. However, that level of funding is still 24 percent less than the 1981 budget. Moreover, we estimate that no more than an additional $0.5 million of the $33 million increase will be available for research grant support; a sum which translates to only 10 possible additional new awards in 1985. This commitment is much too meager for Mr. Ruckelshaus to proceed as indicated in his March 14, 1984 statement to the House Committee on Science and Technology, " ... to strike the proper balance between shorter and longer term research." In his statement, Mr. Ruckelshaus also volunteered the " ... estimate that over 20 percent of our (EPA) total research funds is devoted to long-term projects." His 20 percent estimate is based on the requirement established in May 1983 by the House Committee on Science and Technology that " ... directs the Administrator to obligate and expend at least 20 percent of the funds appropriated ... for long-term environmental research and development." That is reassuring. However, we would be interested in an accounting of how the 20 percent was arrived at: What programs are included and what criteria are used to differentiate long-term from short-term projects?

We strongly recommend that in FY 1985 research grant support at the EPA be reestablished at the original level of approximately $26 million, and that in FY 1986 the sum be increased to twice that amount. An expenditure of over $50 million is not excessive if the nation is to have a strong research program capable of responding to present and anticipated needs for knowledge in the environmental sciences as they relate to human well-being.

Finally, we wish to express agreement with the areas described as deserving of increased research support by Mr. Ruckelshaus in his March 14, 1984 statement to the House Committee on Science and Technology. Included were health and risk assessment, methods to control and manage toxic and hazardous chemicals, engineering to support current and future regulatory activities, quality assurance of environmental data, and research to understand the causes and effects of acid deposition. However, we regret this list of key research areas does not include an explicit statement of priority for programs designed to increase understanding of the environmental implications of genetic engineering. We are of the opinion that the EPA should be the lead Agency in funding research relating to the environmental effects of products of genetic engineering. Biotechnology is advancing at a remarkably rapid rate, and there is need to assess and to plan to manage any associated risk, if the public is to enjoy the benefits of genetic engineering with a minimum of delay.

We welcome this opportunity to express these thoughts and we are prepared to work with you in any way that may be helpful.

Sincerely yours,

Robert Williams
Robert P. Williams, Ph.D.
President, American Society
for Microbiology

Harlyn O. Halvorson
Harlyn O. Halvorson, Ph.D.
Chairman, Public and Scientific
Affairs Board, ASM

David Pramer
David Pramer, Ph.D
Chairman, Committee
on Environmental
Microbiology, PSAB

Table III

Below is a listing of the 18 Region II applications for sources discharging to the New York Harbor complex and their status:

Applications Affecting New York Harbor

1982 Applications	Status	Follow-Up Date
Edgewater, NJ	deferred SD; neg. ISC; neg. EPA TD	revision due: 6/27/84
West New York, NJ	deferred SD; neg. ISC; neg. EPA TD	revision due: 6/27/84
North River, NY	neg. SD; neg. ISC; neg. EPA TD	revision due: 6/27/84
Red Hook, NY	neg. SD; neg. ISC; neg. EPA TD	revision due: 6/27/84
Bayonne, NJ	deferred SD; neg. ISC; neg. EPA TD	revision due: 6/27/84
Jersey City-East, NJ	deferred SD; neg. ISC; neg. EPA TD	revision due: 6/27/84
Jersey City-West, NJ	IG, neg. SD	-
Secaucus, NJ	IG, non-saline waters; neg. SD	-
N. Bergen-Woodcliff, NJ	deferred SD; neg. ISC; neg. EPA TD	revision due: 6/27/84
Hoboken, NJ	deferred SD; neg. ISC; neg. EPA TD	revision due: 6/27/84
Bowery Bay, NY	neg. SD; neg. ISC; neg. EPA TD	revision due: 6/27/84
Hunts Point, NY	neg. SD; neg. ISC; neg. EPA TD	revision due: 6/27/84
Wards Island, NY	neg. SD; neg. ISC; neg. EPA TD	revision due: 6/27/84
Passaic Valley S.C., NJ	deferred SD; neg. ISC; neg. EPA TD	revision due: 6/27/84
Middlesex MUA, NJ	deferred SD; neg. ISC; neg. EPA TD	revision due: 6/27/84
Perth Amboy, NJ	IG, one page appl.	-
N. Bergen-Central, NJ	IG; neg. SD	-
Newtown Creek, NY	revised 12/83; POS proposed	POS decision due 3/84

Legend:

SD - State Determination
pos. SD - State Approval
neg. SD - State Denial
neg. ISC - ISC Denial
neg. EPA TD - EPA Denial
IG - Ineligible for a 301(h) Waiver
POS - Plan of Study for Future Work

APPALACHIAN REGIONAL COMMISSION

OFFICE OF THE
FEDERAL COCHAIRMAN
1666 Connecticut Avenue, N.W.
Washington, D.C. 20235
202/673-7856

Honorable Robert T. Stafford, Chairman
Honorable Jennings Randolph, Ranking Minority Member
Committee on Environment and Public Works
U. S. Senate
Washington, D. C. 20510

Gentlemen:

I am pleased to respond to your request for our detailed views on the Administration's budget request for 1985. To facilitate your consideration, I am making my response to the numbered items contained in your letter of February 10, 1984.

1. Detail of 1985 budget request:

The Administration's budget request for FY 1985 contains no requested budget authority for ARC's non-highway program or the administrative expenses of the Commission, since the Administration is proposing to discontinue these programs at the close of FY 1984. However, the President's budget does include $80 million for the Appalachian highway program which would be made available to the Federal Highway Administration for administration of the program in 1985.

In addition to those funds, $4 million of the $10 million deferred in 1984 would be made available for close out of projects and activities through the Department of Commerce.

The 1985 budget request is similar to the Administration's budget request for 1983 and 1984.

Comparable amounts for the fiscal years 1983 - 1985 follow:

		(Thousands of Dollars)		
	Appropriation and Program	1983 Obligation	1984 Available	1985 Estimate
I.	Appalachian Regional Development program:			
	A. Highways	$ 116,136	$ 110,763	$ —
	B. Area Development Finish-Up	54,638	51,139	4,000
	C. LDD and Technical Assistance	5,406	6,076	—
	D. Stream clearing & other	3,418	2,108	—
	Subtotal program	$ 179,598	$ 170,086	$ 4,000
	E. Funded from prior year balances	-14,465	-15,686	-4,000
	F. Appropriation	$ 165,133	154,400	—
II.	Appalachian Highways (FHWA)	—	—	80,000
III.	Salaries and Expenses:			
	A. Federal Co-Chairman	$ 447	$ 450	—
	B. Commission administrative expense	2,450	2,250	—
	Total	$ 2,897	2,700	—
	C. Balances lapsing	3	—	—
	D. Appropriation	$ 2,900	$ 2,700	—
	Grand Total, Appropriations	$ 168,033	$ 157,100	80,000

2. Rationale for increases or decreases:

The Administration's budget proposes to terminate the area development, LDD and technical assistance programs and the Commission staff, except for $120 million over the 1985-1986 period for the highway program under the Federal Highway Administration. The Administration's budget would provide $80 million in 1985 and $40 million in 1986, which would be utilized to repay states for pre-financed segments and to complete certain segments started under a states "staged construction" program. To ensure orderly progress in closing out the ARC non-highway programs and projects previously funded, $10 million of 1984 nonhighway funds is being deferred to be made available during the 1985-1987 period by Federal agencies administering grants, under the overall supervision of the Department of Commerce.

The Administration's policy on program termination reflects reliance on (1) the private sector and state and local governments to provide the major stimulus for economic development and (2) the user-financed Federal highway program to meet long-run Appalachian highway construction needs, rather than on the general taxpayer to finance special-interest highway projects.

3. Personnel increases or decreases:

Termination of the Commission would eliminate all seven positions in the Federal Co-Chairman's office and the 50 percent Federal support of the 74 non-Federal positions of the Commission staff.

Funds would be available for approximately 30 positions in other Federal agencies for the orderly close out of ARC projects and activities.

4. Rescission, deferrals or supplementals for FY 1984:

The Administration has requested deferral of $10 million in 1984 to provide funding for orderly administrative close out during the 1985 - 1987 period. This is the same amount that was deferred in 1983.

5. No legislative initiatives are necessary to supplement the Administration's 1985 budget request.

6. Grace Commission recommendation:

We are not aware that the Grace Commission made any recommendations concerning the Appalachian program.

I trust this information is in response to your questions. We will be happy to provide additional information or appear in person as you desire. Attached are answers on the additional questions as requested.

Sincerely,

Winifred A. Pizzano

WINIFRED A. PIZZANO
Federal Co-Chairman

Attachment

RESPONSES TO ADDITIONAL QUESTIONS

1. Please provide a list of the projects that will be completed under the $80 million. FY 1985 proposal. Also specify whether funds will be requested for FY 1986 and what projects it would be for.

In the 1983 budget the Administration made a commitment to a 4-year, $80 million annual program to convert existing prefinanced costs, complete "staged-construction" projects, and finish other important segments. The 1985 budget includes the third-year of that program. The budget assumes that $40 million would be requested in 1986, which would be the balance of the commitment remaining after taking into account the actual appropriations for 1983 and 1984. The following table reflects by state, the anticipated allocation and the construction miles that could be accomplished under that allocation:

	President's Budget			
	Allocation @ $80 Million	Development Highways Construction Miles		
State	(000) Dev. Hwy.	Convert Prefinance	Stage Constr.	New Constr.
AL	$ 8,500	—	6.8	—
GA	6,600	*	—	—
KY	14,000	*	1.2	—
MD	11,400	—	1.9	—
MS	3,800	*	—	—
NY	4,200	—	3.8	—
NC	2,100	—	—	1.0
OH	2,300	*	—	—
PA	7,300	—	3.5	—
SG	1,000	—	2.7	—
TN	5,800	—	2.7	—
VA	2,000	—	3.6	—
WV	9,500	—	2.6	—
Subtotals	$ 78,500	—	22.0	1.0
Access Roads	—		—	—
Adm.	1,500		—	—
TOTAL	$ 80,000		22.0	1.0

* Convert Prefinish-up Prefinance.

2. Please specify the difference between your proposal and the Governors' finish-up program for FY 1985.

A. The Administration's budget would terminate the Commission and its nonhighway programs at the end of 1984. It would terminate the Appalachian highway program except for $120 million of state prefinanced or staged construction projects which would be financed by appropriations of $80 million in 1985 and $40 million in 1986.

B. The Governors' finish-up program would provide:

(1) $234 million for the second-year of an eight year program limiting Federal assistance to about one-third the cost of completion of the total planned system.

(2) Continue the Commission's area development program providing:

— $60 million for a jobs and private investment program;

— $15 million for a program to help the most distressed and underdeveloped counties in the Region meet their most critical needs especially safe drinking water and waste disposal; and

— $8 million for ARC's health finish-up program for extending basic health care to counties not yet reached; recruiting health manpower in shortage areas and reducing infant mortality in those counties with rates at least 50 percent above the national average.

The following table compares amounts requested by program:

		(Thousands of Dollars)	
		Administration's Budget	Governors' Request
I.	Appalachian Regional Development Program		
	A. Highways:		
	1. Development Highways	$ 78,895	$ 220,500
	2. Access Roads	—	12,000
	3. Administrative	1,105	1,500
	Subtotal	$ 80,000	$ 234,000
	B. Area Development:		
	Jobs and Private Investment	—	54,000
	Distressed Counties	—	15,000
	Health Finish-Up	—	8,000
	Federal Agency Admin.	4,000	1,000
	Subtotal	$ 4,000	$ 78,000
	C. LDD and Technical Assistance:		
	LDD Support	—	4,000
	Technical Assistance	—	1,000
	Subtotal	—	5,000
	D. Less Prior Year Balances	-4,000	—
	Appropriations	$ 80,000	$ 317,000
II.	Salaries and Expenses:		
	A. Federal Share of Administrative Expenses	—	$ 2,050
	B. Federal Co-Chairman's Office	—	450
	Total Appropriations		2,500
	GRAND TOTALS	$ 80,000	$ 319,500

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF ENVIRONMENTAL QUALITY
722 JACKSON PLACE, N. W.
WASHINGTON, D. C. 20006

February 29, 1984

Honorable Robert T. Stafford
Chairman
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

Honorable Jennings Randolph
Ranking Minority Member
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

Dear Messrs. Stafford and Randolph:

Thank you for providing me with the opportunity to submit my views to you regarding our FY 1985 appropriations request. I have already provided our budget estimate and my statement to the House Subcommittee on Appropriations for HUD and Independent Agencies and I am enclosing additional copies with this response.

Regarding your inquiry about legislative initiatives, the Administration has included a provision to establish a Management Fund in its recently submitted Reauthorization Bill for the Office of Environmental Quality. The management fund would be used to administer study contracts by the Office of Environmental Quality and one or more other federal agencies, and to support interagency environmental projects and task forces in which the Office of Environmental Quality participates. A management fund is desired because it will provide more definitive statutory authority for interagency funded projects and greater accountability since it will be subject to normal budget review and execution requirements. This is discussed in the accompanying budget estimate.

Please note that no referrals, deferrals, or supplementals have been requested by CEQ for fiscal year 1984. None of the actions proposed in the budget reflect recommendations of the Grace Commission.

Further information in response to your questions is attached. The Council will provide whatever further information the Committee requests.

Sincerely,

A. Alan Hill

A. Alan Hill
Chairman

Enclosures

STATEMENT OF A. ALAN HILL
CHAIRMAN, COUNCIL ON ENVIRONMENTAL QUALITY
BEFORE THE
SUBCOMMITTEE ON APPROPRIATIONS FOR HUD & INDEPENDENT AGENCIES
HOUSE OF REPRESENTATIVES COMMITTEE ON APPROPRIATIONS
MARCH 13, 1984

Mr. Chairman and Members of the Subcommittee:

I am pleased to appear before you today to discuss the President's request for $700,000 to support the activities of the Council on Environmental Quality and the Office of Environmental Quality in fiscal year 1985. First, I would like to introduce to you the other Member of the Council - Dr. William L. Mills, our General Counsel - Dinah Bear, and our Executive Officer - Kemp Harshman. They are available with me in responding to your questions.

The President's appropriation request provides the Council with a constant level of funding for salaries and expenses in the next fiscal year. I am confident that CEQ can continue to perform its major responsibilities and to contribute to a better understanding of our environment with this level of funding.

WATER RESOURCES RESEARCH CENTER AND INFORMATION CLEARINGHOUSE STUDIES

Because I believe it will be of interest to you, I will first address CEQ's major contract studies to consider and define a National Center for Water Resources Research, and to define and plan a National Clearinghouse for Water Resources Information.

The Council has made these studies a top priority and I am pleased to report to you today about our progress. As you know, a supplemental appropriation was passed and signed into law on December 1, 1983 to provide for these two feasibility studies. The Council immediately began work. First, a task of technical experts from the Environmental Protection Agency, the Geological Survey of the Department of Interior, the Army Corps of Engineers and, of course, the Council itself, was established. That group prepared a detailed and comprehensive statement of work which was sent to another 15 federal agencies for review and comment. This additional input was solicited to provide for a balanced and technically sound approach. After numerous revisions, a request for proposals (RFP) was developed and submitted to the contract officer for publication in the Commerce Business Daily (CBD). On January 4, 1984, a little more than a month after the appropriation was passed, the announcement appeared. The Council has made every effort to expedite the contracting process so that the Congressionally mandated deadline of September 30, 1984, for completion of the studies can be met.

In response to the CBD notice, approximately 90 requests for the RFP were received. Several excellent proposals were submitted and evaluated by technical experts from CEQ, EPA, USGS and the Corps. I am pleased to announce that the contract has been competitively awarded to the Chesapeake Research Consortium, Inc.

The Consortium is a nonprofit corporation created in 1972 and chartered in the State of Maryland to provide a focal point for cooperative programs in research and analysis. It includes the Johns Hopkins University, the University of Maryland, the Smithsonian Institution and the Virginia Institute of Marine Science of the College of William and Mary. Chesapeake clearly meets the university-based criterion which was imposed in the implementing legislation.

The Chesapeake Research Consortium has several strengths that will enable it to do an excellent job on the CEQ Water Resources Research Center and Information Clearinghouse studies. In the technical proposal, the Consortium presented a practical, straightforward and easily understandable approach to evaluating institutional attributes by use of a matrix. Organizational functions are arranged on a continuum in terms of substance, involvement, and activity level. In this way, the particular mission statements for the research center and the information clearinghouse can be more readily compared.

The staffing arrangement provides for rapid development of work products and rapid evaluation by a wide range of experts. The core staff will do the initial evaluation and drafting; a board of consultants will be used to comment on the material to provide the broadest possible perspective.

The Consortium has pulled together a diverse team of highly qualified investigators. The available expertise includes hydrologists, resource economists, a biologist, and a natural resources lawyer. Various public interests are also represented. In particular, a regional government official, an industry representative, and a citizen's group spokesman are involved. The team is balanced with a combination of experts from various regions of the country. Also joining the group are the former director of the Chesapeake Bay Center for Environmental Studies, a former Director of the U.S. Fish and Wildlife Service, and a Committee Chairman of the American Water Works Association. Certainly, the Consortium is responsive to the Congressional directive to conduct a multi-disciplinary study to determine how institutions and individuals in both the private and public sectors can participate in water resource planning and research.

Next, let me say a few words about CEQ's approach to these studies. The work statement combines the research center and information clearinghouse studies under a single contract. The Congress gave CEQ the option of a joint or separate contracts. We believe the combined studies would be most cost effective for the government because several tasks were similar and would be duplicated if two contractors were used.

The study is divided into two phases. In the first, the contractor will propose alternative institutional designs for a research center and information clearinghouse, following a review of current programs and relevant policy literature. In the second phase, the contractor will evaluate and critique three of those designs for a center and three for a clearinghouse.

As a part of its evaluation process, the Council will seek input at the end of each phase from a wide array of citizens, member organizations, and professional associations. At least two public meetings will be sponsored by CEQ and announced well in advance in the Federal Register. Persons or organizations not able to participate in the public meetings will have an opportunity to provide written comments within the same deadline. CEQ will also provide copies of Contractor reports to all who request them.

CEQ will undertake independent efforts to insure that the Congressionally mandated schedule is met. The Council will monitor progress through regular meetings with the Contractor and will conduct its own reviews of contractor reports in a timely manner.

In addition, CEQ will continue to work closely with the contact persons designated by interested Federal agencies. The three agencies specified by the Congress (USGS, EPA, and the Corps), will participate with CEQ in all scheduled meetings with the Contractor. All interested Federal agencies will receive Contractor reports and have an opportunity to comment.

Let me briefly highlight some of the other major efforts and plans of the Council.

ACID PRECIPITATION

Late last fall, the White House asked CEQ to develop a paper on policy options for the acid rain issue. CEQ was asked to perform this function because it had no vested interest in the outcome and could act as an arbiter between other federal agencies. The resulting document formed the basis for the Cabinet Council debate prior to the President's decision. CEQ will continue its responsibility for policy coordination in this important area during FY 1985.

ANNUAL ENVIRONMENTAL QUALITY REPORT

CEQ has accelerated the publication schedule for its Annual Environmental Quality Report and plans to release it this spring. Draft copies are currently under interagency review. This year's report is of particular significance because it incorporates several innovations designed to present broader coverage of environmental information in a format that is easier to use. For instance, the Report is divided into separate sections for each environmental medium - air, land, and water. Also, information about what is going on in the environment (status and trends) is treated separately from information about what is being done (programs and activities).

NATIONAL ENVIRONMENTAL QUALITY ACT

The Council is continuing its oversight of the National Environmental Policy Act, a responsibility which I feel is extremely important. In this respect, we perform a number of useful functions. These include frequently resolving problems between various agencies on an informal basis, and, less frequently, a formal basis; responding to a continual stream of requests for help and information from individuals and groups outside of the federal government; evaluating and approving agency NEPA procedures; providing assistance to foreign governments regarding the environmental assessment process; and other activities. In addition, we oversee the administration and interpretion of the regulations issued by CEQ which govern the procedural implementation of NEPA.

The Council fulfills part of this responsibility by issuing guidance to the federal agencies on various aspects of the regulations. We also examine issues of major concern which arise in relationship to the Act.

NUCLEAR WASTE POLICY ACT

CEQ has played a significant role in the implementation of environmental review requirements under the Nuclear Waste Act. In FY 1985, we will become involved in the review of environmental assessments for each of the 9 potential sites for the first nuclear waste repository.

RESOURCE DATA USER STUDY

The Council is currently sponsoring a contract study about the "Needs for and Sources of Resources Information in Large U.S.-based Corporations." We expect to learn much from this project about the role and effectiveness of the Federal government in meeting the private sector's information needs in the natural resource area.

CONFERENCE ON THE PRIVATIZATION OF WILD LIVING RESOURCES

CEQ is currently in the planning stages for a symposium to examine private sector initiatives for species preservation. The purpose of this FY '85 project would be to identify conditions necessary for promoting beneficial private investment in wildlife management programs.

ENVIRONMENTAL TRENDS

During FY 1985, the Council will begin collecting data to update the Environmental Trends report. Publication is planned for 1986, at a statistically meaningful 5 year interval from the first edition.

CHEMICAL SUBSTANCES INFORMATION NETWORK

CEQ is in the final development stage for the Chemical Substances Information Network. In FY 1985, this artificial intelligence technology will be transferred to the National Technical Information Service for private sector licensing.

MANAGEMENT OF THE CEQ CONSOLIDATED WORKING FUND

In the last year, the Council initiated numerous management improvements in its Consolidated Working Fund. As a result, the fund is operated with better accounting procedures and sole source contracting has been curtailed. From the Consolidated Working Fund, CEQ has awarded over $425,000 in contracts for studies on a competitive basis since September of 1983. Only one sole source contract has been let in this fiscal year. That was for a product available only from an exclusive franchise distributor and was funded from CEQ's appropriated funds.

CEQ has requested a Management Fund to replace the Consolidated Working Fund beginning in FY 1985. A provision to provide for this is contained in the pending Administration Reauthorization Bill. A Management Fund is desired because it will provide more definitive statutory authority for inter-agency funded studies and projects and greater accountability since it will be subject to normal budget review and execution requirements.

This concludes my brief summary. I would be pleased to entertain any questions which you might have regarding the Council and our work plan for FY 1985.

FISCAL YEAR 1985 BUDGET REVIEW

COUNCIL ON ENVIRONMENTAL QUALITY

AND

OFFICE OF ENVIRONMENTAL QUALITY

RESPONSES TO QUESTIONS FOR THE RECORD

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

1. Question:

Please describe the obligational status of the $600 million provided to CEQ in the supplemental for water research and the water resources institute.

Answer:

The Supplemental Appropriations Act, 1984 (Public Law 98-181) provided an additional amount of $600 thousand to the Council on Environmental Quality and the Office of Environmental Quality to conduct a contract study to consider and define a National Center for Water Resources Research and a contract study to define and plan a National Clearinghouse for Water Resources Information. The Conference Committee Report directs the Council to competitively award these two contract studies to a university based contractor.

CEQ has published a notice in the Commerce Business Daily soliciting bids and received several proposals. Those proposals have been evaluated for technical merit by an interagency panel of water science experts. The Procurement Branch of the Office of Administration conducted a review of the cost proposals. Based on this evaluation, the Council has made its recommendation and expects a contract to be awarded shortly. The amount of the contract is anticipated to range between $200,000 and $300,000.

In addition, CEQ is considering an unsolicited proposal from the Argonne Laboratory for peer review of the contractor reports from the studies. No funds have been obligated, but CEQ anticipates expenditures in the range of $30,000 to $60,000 for peer review activities.

The Council may also expand an ongoing study by the World Wildlife Fund-U.S. of "The Needs For and Sources of Resources Information in Large U.S. Based Corporations." This project is a user needs survey related to environmental data provided by federal agencies. CEQ is drafting a list of additional tasks to expand the existing scope of work. This modification would provide for a more indepth review of federal water resources information. It would also expand the survey beyond corporations to include other important water-related organizations, such as irrigation districts and state water management agencies. Once the scope of work has been established, the Council will negotiate a cost for the work with World Wildlife-U.S.

CEQ is also planning to conduct public meetings related to the study contracts. This is in the initial planning stage and no cost estimate is available at this time for conducting these public meetings.

In addition, CEQ is charging its incidential administrative costs which are verifiable and directly related to the contract studies against the supplemental appropriation. This will consist primarily of items such as postage, messenger service, and long distance telephone charges; it does not include salaries or standard level users charge (rent). CEQ has budgeted $3,000 for these incidental expenditures.

2. Question:
Please specify whether RIFs will be required because of the FY 1985 funding and FTE level.

Answer:
In FY 1984, CEQ has a budget authority of $1,300,000. This includes a regular appropriation of $700,000 for salaries and expenses, and a supplemental appropriation of $600,000 for water resource contract studies.

The FY 1985 budget request of $700,000 for salaries and expenses is at the same level as current operations. This being the case, CEQ will not be required to conduct any RIFs provided the President's Budget Request is adopted.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF ENVIRONMENTAL QUALITY
722 JACKSON PLACE, N. W.
WASHINGTON, D. C. 20006

Questions and Answers
Environment and Public Works Committee, U.S. Senate
March 2, 1984

1. Q: How many CEQ/OEQ staff members work on NEPA oversight and what other responsibilities do they have in addition to NEPA oversight?

   A: Three CEQ/OEQ staff members work on NEPA oversight: the General Counsel, the Deputy General Counsel, and a paralegal specialist who also serves as the secretary to the General Counsel's office. The General Counsel spends approximately 90% of her time on NEPA oversight duties, but also has responsibilities as the agency's designated Ethics Officer and for compliance with the Sunshine Act and other legal duties which arise from time to time. The Deputy General Counsel spends much of his time functioning as the agency's Executive Officer and much of his time on legal questions which are not related to NEPA. His NEPA duties involve CEQ's responsibilities under the Nuclear Waste Policy Act, and account for a small portion of his time -- perhaps five to ten percent. The paralegal specialist spends most of her time involved in paralegal work on NEPA responsibilities; however, this time is constrained by her secretarial duties. Thus, she spends about 25 to 30 percent of her time involved in NEPA oversight responsibilities.

2. Q: What is the scope of the Council's review of proposed revisions to Federal guidelines and regulations for implementing NEPA?

   A: The General Counsel's office customarily reviews amendments to agencies' NEPA procedures at the draft stage and identifies and helps solve any problem areas; tracks the progress of the procedures through the public comment stage, and issues a letter of consistency with the CEQ regulations prior to the agencies' procedures as a final amendment or rule.

3. Q: How often is CEQ requested to resolve which agency should assume responsibility as a lead agency when two or more agencies are concerned with preparation of EIA or EIS?

   o How many Environmental Impact Statements does CEQ review each year? How much time does CEQ spend on its reviews?

- o Does any unsolicited review of an EIS or EIA occur?

A: CEQ generally receives two to five requests per year to resolve disputes regarding which of two or more agencies should be the lead agency for preparation of an EIS.

- o We review perhaps ten EIS(s) per year, spending an average of perhaps two to three days on each of them. (Most opportuntities for consultation, of course, occur before an EIS is completed.)

- o Unsolicited review of EIS(s) or environmental assessments occurs only on a spot-check basis as they come into the office and as time allows. This occurs on a minimal basis (perhaps several hours a month).

4. Q: How often (and how many) does CEQ receive informal requests from Federal agencies, the general public, interest groups, and from State and local agencies concerning NEPA?

- o How does this compare to formal referrals that the Council receives from Federal agencies?

- o Are Council responses always timely? Are requests answered sufficiently?

A: CEQ receives approximately eight requests from federal agencies on a weekly basis, between ten and twelve inquiries from the general public weekly, perhaps three or four from public interest groups, and perhaps two to three requests a month from state and local agencies concerning NEPA.

- o This compares to 19 formal referrals that the Council has received since 1970. Two or three formal referrals have been received by the current Council, and we have several pre-referral notices at the present time.

- o Council responses to the informal requests vary in their timeliness.

- o Not all responses are not as timely as might be desired. We do attempt to answer all requests in a sufficient manner, given time and current resource restraints.

5. Q: How many of the EIS(s) and EIA(a) reviewed are reviewed for completeness and compliance with NEPA requirements?

- o How does this figure compare with the number that were reviewed in FY 1980?

A: Very few EISs or EAs are reviewed by the Council for completeness and compliance with the NEPA requirements -- possibly three to seven a year. Most requests for becoming involved in the NEPA process relating to a specific proposal occur prior to completion of the EIS or EA. Most of our work in terms of problem solving occurs at this earlier stage.

- In FY 1980, the Council did obtain a detailee from another agency with the specific purpose of reviewing EISs and EAs for completeness and compliance with the NEPA requirements. This particular activity in 1980 was motivated by a desire to ascertain the effect of the new regulations. In that year, the detailee reviewed 242 EISs. Additionally, the Council used a contractor in 1980 to review all EIS(s) prepared by the Nuclear Regulatory Commission, a total of approximately 150 EIS(s). Both of these reviews were special projects. In terms of other EIS reviews, staff directed their efforts towards solving problems before completion of a NEPA document. The 1980 staff which I have talked to has estimated that they reviewed perhaps five to ten EISs and EAs in 1980 for completeness and compliance. They also estimated that they were involved in approximately 20 to 25 problem solving activities dealing with NEPA proposals before completion of the NEPA document.

6. Q: Specifically, what sort of analysis, compilations, or assessments has the present Council completed to provide guidance to Federal agencies responsible for implementing NEPA? How often?

A: The present Council published guidance relating to the NEPA regulations in July, 1983. The guidance focused on six topics: scoping, tiering, alternatives, categorical exclusions, use of contractors to prepare EIS(s) and adoption of environmental assessments and EIS(s). The guidance was the result of an extensive public review to identify areas of the regulations which needed clarification or interpretation.

We have not issued any other guidance in final form, case interpretations or analysis, or statistical compilations (other than information included in the annual report NEPA chapter).

7. Q: How often has the present Council received requests from representatives of other nations regarding NEPA? Are they all answered?

- What efforts are being made to assist other nations develop statutes similar to NEPA?

- o Specifically, what else is occurring between CEQ and other countries regarding environmental quality?
- o How much staff time is spent in this area?
- o What is the status of oversight of Executive Order 12144, "Environmental Effects of Major Activities Abroad"? [The E.O. number is 12114.]

A: The Council receives approximately five to eight requests a year from other nations regarding NEPA. Requests for written information are always fulfilled and meetings in Washington, D.C. are always arranged. We are somewhat restricted in our ability to spend a great deal of time fulfilling some of the requests, and have not been able to meet all requests for travel to foreign countries.

- o To the extent possible, we provide written information concerning NEPA, our regulations, and analyses and commentary which have been written about the statute.
- o We also attempt to meet with representatives of foreign governments who come to Washington and who have made us aware that they have an interest in environmental assessment law. The Council has traditionally been active in the Law and Administrative Agreement Project on Cooperation in the Field of Environmental Law Project. In this regard, the General Counsel travelled to the USSR during 1983 as part of an official delegation. During 1985, we hope to receive USSR environmental law specialists. A formal delegation from the Soviet Union is scheduled for 1986, and CEQ would be expected to assume some financial and host responsibilities in that regard.
- o Staff time involved in international affairs related to NEPA varies greatly depending on current requests, visits, etc. A rough estimate would be approximately two to three weeks worth of work a year, aside from any travel time.
- o The Administration has reviewed Executive Order 12114 and determined to retain it, without any admendments. The last progress report and active oversight regarding implementation of that Executive Order occurred in November of 1980. See 45 Fed. Reg. 77106, November 21, 1980. We have responded to occassional inquiries from the agencies regarding the Executive Order.

8. Q: Are specific, permanent staff members responsible for work on the Annual Report on Environmental Quality? The revision of Environmental Trends?

   - Specifically, what are the resources being committed to these areas?

A: Permanent staff members are responsible for certain chapters published in the Annual Report on Environmental Quality; specifically, the General Counsel is responsible for the chapter on the National Environmental Policy Act and the Senior Economist is responsible for the economics chapter. Other work in terms of writing the chapters is currently performed by personnel from other agencies. The coordination, editing and review of the chapters is performed by detailees to CEQ.

9. Q: Please outline the level of activity occuring under the present Council regarding all of the statutes and Executive Orders under which the CEQ has specific responsibilities.

   - How many professional staff workdays per year are devoted to the statutory and Executive Order obligations, including all aspects of NEPA implementation oversight?

   - Please indicate which staff members are assigned to each area.

A: Following is a list of the statutory and Executive Order obligations with the requested information in parentheses after each item:

National Environmental Policy Act (1969)

42 U.S.C. 4321

The Establishment of CEQ

42 U.S.C. 4332(2)(B)

All federal agencies, in consultation with CEQ shall develop methods and procedures to assure that environmental amenities and values are considered in decisionmaking.

(Four and one-half days a week, Dinah Bear; one and one-half to two days a week, Julia Alessio.)

Environmental Quality Improvement Act (1970)

42 U.S.C. 4371

This Act authorizes an Office of Environmental Quality which provides the professional and administrative staff for CEQ.

42 U.S.C. 4372

The Chairman of CEQ is the Director of the Office of Environmental Quality.

(Seven staff members.)

Urban Mass Transportation Assistance Act (1970)

49 U.S.C. 1610

CEQ must be consulted by the Secretary of Transportation in carrying out the policy of this title to preserve the natural beauty of the countryside, etc., in designing and constructing urban mass transportation projects for which federal assistance is provided.

(No resources.)

Airport and Airway Development Act (1970), As Amended

49 U.S.C. 2203

"National airport and airway system plans" Title V of Pub.L. 97-248, Sept. 3, 1982, 96 Stat. 695.

Formerly, under 49 U.S.C. 1712, CEQ was listed as an agency to be consulted for recommendations in the development of a national airport system plan.

The 1982 law, cited above, does not specifically mention CEQ. The comparable section, 49 U.S.C. 2203, "Consultation with Federal and public agencies and aviation community" states: "In reviewing and revising the national airport system plan, the Secretary shall consult, to the extent feasible and as appropriate, with other Federal and public agencies, and with the aviation community."

(No resources.)

Marine Mammal Protection Act (1972)

16 U.S.C. 1401

CEQ and certain other agencies are given the responsibility for submitting lists of individuals qualified for service on the Marine Mammal Commission from which the President selects members.

16. U.S.C. 1403

CEQ must be consulted by the Marine Mammal Commission in establishing a Committee of Scientific Advisors on Marine Mammals.

(Three days a year, Dinah Bear)

Coastal Zone Management Act Amendments (1976), As Amended

16 U.S.C. 1456b(c)

The Chairman of the Council, or his designated representative has responsibility for participating, on behalf of the Federal Government, in Federal-state consultations regarding marine and coastal zone problems.

(No resources.)

National Science and Technology Policy Organization and Priorities Act (1976)
42 U.S.C. 6617

The Director of the Office of Science and Technology Policy will work in close cooperation and consultation with CEQ.

(No resources.)

Toxic Substances Control Act (TSCA) (1977)
15 U.S.C. 2603

The Chairman of CEQ shall appoint one person from the Council to the Interagency Testing Committee, established to make recommendations to the EPA Administrator regarding those chemical substances and mixtures which should be given priority consideration for the promulgation of a testing requirement rule under §2603(a).

(One and one-half days a month, Tom Magness -- Detailee.)

Interagency Toxic Substances Data Committee

(One day a month, Tom Magness.)

Department of Energy Organization Act (1977)
42 U.S.C. 7265

A representative of CEQ shall be entitled to participate in the deliberations of the Regional Energy Advisory Boards.

(No resources.)

National Climate Program Act (1978)
15 U.S.C. 2904

CEQ will have a role in the National Climate Program as defined by the President. The Secretary of Commerce has lead agency responsibility. The Program will assist the Nation and the world in understanding and responding to natural and man-induced climate processes and their implications.

(No resources.)

Endangered Species Act Amendments (1978)
16 U.S.C. 1536

Any agency granted an exemption under subsection (h) must submit to CEQ a report describing its compliance with the necessary mitigation and compliance methods. The reports, which CEQ must publish in the Federal Register, shall be annually submitted until all such measures are completed.

(One day a year, Julia Alessio.)

Small Hydroelectric Power Projects (1978)
16 U.S.C. 2705(b)

CEQ must be consulted prior to the issuance of any licenses under the Federal Power Act.

(No resources.)

Health Services and Center's Amendments (1978), As Amended
42 U.S.C. 242b(d)(3)

The 1981 amendment, Pub.L. 97-35, Aug. 13, 1981, 95 Stat. 565.

CEQ shall participate in a study of the present and projected health costs of pollution and other environmental conditions resulting from human activity. The report is to be completed not later than 18 months after November 9, 1978.

The subject report was to be the first of ongoing studies. The statute authorized subsequent studies to be made every two years. The 1981 amendment changed the requirement to report every three years.

(No resources.)

Energy Security Act (1980)
42 U.S.C. 8701

Establishes a comprehensive program to study the causes and effects of acid rain.

The Council on Environmental Quality shall, in conjunction with other members of the Acid Precipitation Task Force, prepare a research plan and a study identifying the causes and effects of acid rain and methods to ameliorate the harmful effects of acid precipitation. (42 USC 8902)

(Four and one-half days a week, Gordon Brady.)

Nuclear Waste Policy Act of 1982 (January 7, 1983)
96 Stat. 2201

The Council on Environmental Quality (along with The Environmental Protection Agency, and others) is charged with reviewing guidelines, issued by the Secretary of Energy, for the recommendation of sites for repositories [of high-level radioactive waste and spent nuclear fuel]. (42 USC 10132)

The Council on Environmental Quality, and other specified agencies, will comment on Environmental Impact Statements for proposed nuclear waste repository sites. (42 USC 10134)

The Council was also given responsibility, along with other agencies, for reviewing such guidelines as are issued by the Secretary of Energy, for the selection of a site for a test and evaluation facility. (42 USC 10193)

(Three to four weeks a year, Kemp Harshman.)

International Environmental Protection Act of 1983 (November 22, 1983)
97 STAT. 1045
Title VII of Pub.L. 98-164 (Nov. 22, 1983).

The Administrator of the Agency for International Development shall, in conjunction with the Chairman of CEQ and others, develop a U.S. strategy, including specific policies and programs, to protect and conserve biological diversity in developing countries.

(Activities to comply with this Act are currently being started by the Agency for International Development and the CEQ General Counsel has been appointed as a representative in this regard.)

EXECUTIVE ORDERS:

Executive Orders 11644 and 11989, Off-Road Vehicles on Federal Lands. CEQ has oversight responsibility.

(Two weeks a year, Dinah Bear.)

E.O. 12114, Environmental Effects of Major Federal Actions Abroad. CEQ has oversight responsibility. Shared with the Department of State.

(One and one-half days a year, Dinah Bear.)

10. Q: What is the status of the recommendations CEQ received from the Interagency Task Force on Environmental Data and Monitoring?

    - What actions have been taken as a follow up to this?
    - How many Council staff are committing work time in this area?

A: CEQ has not acted upon recommendations received in 1980 from the Interagency Task Force on Environmental Data and Monitoring. We have recently obtained a detailee from the Fish and Wildlife Service who is studying that prior work in this area and will be making recommendations as to what CEQ might do in this area in the futre.

UNITED STATES DEPARTMENT OF COMMERCE
The Assistant Secretary for Economic Development
Washington, D.C. 20230

Honorable Robert T. Stafford
Chairman, Committee on Environment
and Public Works
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

Thank you for your letter of February 10, 1984, requesting my views and certain specific information related to the FY 1985 Budget and our plans for carrying out the FY 1984 programs of the Economic Development Administration. As you requested, most of the information has been incorporated into the written testimony; the four specific questions posed in the attachment to your letter have been dealt with separately.

Should your schedule allow, I would, of course, be most pleased to appear again before the Committee. I am most grateful for the gracious reception I received from the Committee when I first appeared before you last month.

Sincerely,

J. Bonnie Newman

J. Bonnie Newman
Assistant Secretary
for Economic Development

Enclosures

STATEMENT BY THE ASSISTANT SECRETARY OF COMMERCE
FOR ECONOMIC DEVELOPMENT
J. BONNIE NEWMAN
BEFORE THE SENATE COMMITTEE ON ENVIRONMENT,
AND PUBLIC WORKS

MARCH , 1984

Mr. Chairman and members of the Committee, I am pleased to appear before you today to discuss the 1985 budget request for the Economic Development Administration (EDA).

For 1985, no funds are being requested for the continuation of the Economic Development Assistance Programs. The reasons for phase-out are twofold: First, it is not believed that the Federal government should assume direct responsibility for addressing economic development problems at the local level. In fact, our experience of how well such efforts can be managed at the local level only reinforces the view that it is appropriate to phase-out the Economic Development Administration (EDA) programs. This is not to say that federal funding support is not appropriate through other, more effective programs such as Urban Development Action Grants and the programs of the Farmers' Home Administration. Secondly, the problem of the budget deficit is simply too great to consider the continuation of programs for which there are reasonable alternatives; state and local capability provides that alternative in the area of economic development. As is evidenced by reduced inflation and declining unemployment, problems of local economic stability are resolved more effectively when the responsibility lies with those closest to the problem....business, private citizens' organizations and state and local officials.

To accomplish this phase-out, we are requesting $22.5 million in administrative funds with a targeted staff level of 160 employees by the end of 1985. These levels will enable us to effectively monitor ongoing projects and achieve maximum the timely collections of monies owed to the Federal Government. Employees responsible for initiating and/or processing new projects will be released on January 1, 1985. Based on our current staffing and the plan for 1984, this Reduction-in-Force will total 280 employees, including the 47 Economic Development Representatives.

This budget request is consistent with the 1983 and 1984 Administration requests of zero program funding although funds were appropriated in both years at the initiation of the Congress. The following table provides a comparison of 1983 obligations, the 1984 appropriation, and the 1985 request.

(in thousands of dollars)

	FY 1983 Actual Obligations		FY 1984 Appropriation To Date		FY 1985 Request	
	FTE	Amount	FTE	Amount	FTE	Amount
Salaries and expenses..........	465	$27,452	455	$27,500	250	$22,476
Economic development assistance Programs:						
(1) Planning grants............	...	24,862	...	27,000	...	...
(2) Technical assistance grants	...	7,499	...	8,000	...	...
(3) Development grants.........	...	129,909	...	130,000	...	...
(4) Economic adjustment grants.	...	32,999	...	33,000	...	...
(5) Research and evaluation....	...	2,000	...	2,000	...	...
Subtotal..................	...	197,269	...	200,000	...	...
(6) Emergency Jobs Act.........	...	100,000	...	40,000	...	...
Total program............	...	297,269	...	240,000	...	...

No rescissions or deferrals are being requested for 1984. EDA has requested a supplemental in the amount of $220,000 to cover the cost of the 3.5 percent civilian pay raise which was effective January 8, 1984.

No legislative initiatives are necessary or are being considered to implement EDA's 1984 program as appropriated. However, consideration is being given to initiate legislation to repeal the "McDade Amendment", which prohibits the sale of loans without the consent of the borrower. The Administration feels this prohibition will hinder the efficient management of the Agency's loan portfolio.

The Grace Commission addresses two major areas of concern which are applicable to EDA's programs. Our actions in the areas of debt collection and the deobligation of unused program funds actually were initiated prior to the formation of the Commission. We have been and will continue to work with the Department and the OMB to increase our collections and to reduce our undisbursed obligations. Our collections for 1983 were $97 million, exceeding our target by $7 million. We deobligated $31 million of unliquidated obligations during the year.

Having outlined the 1985 Budget Request, I would like to turn to what I consider to be the more pressing issue, that is, managing the programs of the Economic Development Administration as they now exist.

It is my intention to devote my energy to managing the people and the programs of the Agency. I believe we would all agree that quality, professional management and selection of the best available projects must be our primary concerns. I believe that working with the EDA staff we will be able to achieve these objectives.

Official announcement of the availability of 1984 program funds has been made in the Federal Register. I am working closely with the staff in the Regional Offices as well as at headquarters to make sure the 1984 program is implemented in a timely fashion in accordance with the will of the Congress.

Thank you Mr. Chairman, that concludes my prepared statement. I and my colleagues will be happy to answer any question you and the members of the Committee may have.

DEPARTMENT OF COMMERCE
Economic Development Administration
Questions and Answers
Committee on Environment and Public Works

Question:

1. Please provide statistics on the types of projects that are presently in the pipeline.

Answer:

Planning* ($27 million appropriation)

Grants to 257 Economic Development Districts, 14 Areas, and 74 Indian Organizations: to conduct economic development planning activities and--in the case of seven districts--provide export promotion assistance as well
$18,178,581

Research ($2 million appropriation)

Grant to Harvard Graduate School of Business Administration: to conduct a study on U.S. industrial competitiveness
$148,500

Grant to Institute for the Study of Advancing Technology, Delaware Technical and Community College: to develop and disseminate college curricula in advanced technology and conduct on-site training in industrial plants
$99,500

Technical Assistance ($8 million appropriation)

Grants to 41 University Centers in 35 States: to provide a range of management and other technical assistance services to communities and firms
$3,045,000

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*State and urban 302(a) grants totalling close to $8 million are expected to be authorized within the next three weeks.

LIST OF AUTHORIZED PUBLIC WORKS PROJECTS
AS OF 2/17/84

Region: Philadelphia Allocation: $25,699,800

Applicant/ Project No	Description/ Orig. Auth. ($000)	Auth. Date	Current Auth. EDA $(000)	U/R	Status
ME					
Portland (01-01-02031.03) 01-01-02568	Cooler/auction/bldg ($1,200) (co) *	04/26/83	1,300 (1/20/84)	U	RO
MD					
Baltimore 01-01-02541	Ind prk infra ($1,200) (co)	04/26/83	1,200	U	Appr 01/03/84
MA					
Boston 01-01-02533	High tech site ($2,000) (co)	04/26/83	2,008	U	Appr 12/14/83
NJ					
Millville 01-01-02543	Ind prk infra ($400) (co)	05/10/83	640	R	Appr 01/03/84
PA					
Tioga Co. IDA Westfield Bor 01-01-02551	Waste coll/trmt system ($500)	06/10/83	500	R	Appr 10/26/83
Urban Educ Fund of Phila., Inc.	Urban Educ Ctr ($1,600)	10/26/83	1,600	U	N/R
PR					
Municipio Caguas 01-11-02519	Comm/Ind bldg improv ($1,000) (PWIP) (co)	04/26/83	1,000	R	Ret RO 11/28/83
WV					
Greenbrier Co Airport Auth. Lewisburg 01-01-02501	Ind prk infra ($863) (co)	12/17/82	862	R	OPW
		TOTAL PWIPs	9,110 (1,000)		

*carry over (co)

LIST OF AUTHORIZED PUBLIC WORKS PROJECTS
AS OF 2/17/84

Region: Austin

Allocation: $13,023,000

Applicant/ Project No	Description/ Orig. Auth. ($000)	Auth. Date	Current Auth. EDA $(000)	U/R	Status
AR					
Benton 08-01-02371	Water supply ($900) (co)	04/26/83	862	R	Appr 12/02/83
Texarkana 08-01-02370	Water storage ($420) (co)	04/26/83	434	U	Appr 12/02/83
OK					
Kiamichi Area Voc Tech, Latimer 08-01-02377	Skill center ($1,000) (co)	04/26/83	1,000	R	A/S

LIST OF AUTHORIZED PUBLIC WORKS PROJECTS
AS OF 2/17/84

Region: Denver co=carryover Allocation: $8,094,900

Applicant/ Project No	Description/ Orig. Auth. ($000)	Auth. Date	Current Auth. EDA $(000)	U/R	Status
MO					
Mississippi Co. Port Auth., Charleston 05-01-02116	Marineway ($397) (co)	04/26/83	400	R	DC/OPW
ND					
Beulah 05-01-02112	Ind prk exp ($500) (co)	04/26/83	500	R	Ret RO 11/22/83
WY					
Kemmerer 05-11-02130	Street repairs ($500)	10/26/83	500	R	OPW
		TOTAL (PWIPs)	1,400 (500)		

LIST OF AUTHORIZED PUBLIC WORKS PROJECTS
AS OF 2/17/84

Region: Seattle co=carryover Allocation: $17,650,100

Applicant/ Project No	Description/ Orig. Auth. ($000)	Auth. Date	Current Auth. EDA $(000)	U/R	Status
CA					
Los Angeles 07-01-02667	Pacoima shopping ctr (co)	04/26/83	950	U	Appr 12/29/83
South Gate 07-01-02672	Wtr reserv sys (co)	04/26/83	1,614	U	Appr 11/28/83
Soledad 07-01-02685	Access rd & utils (co)	04/26/83	450	R	RO "702"
ID					
Salmon 07-11-02661	Swr, wtr, drnge improv & visitor ctr (co)	05/19/83	1,000	U	PC
OR					
Veneta 07-01-02703	Street, wtr, swr ext (co)	04/26/83	160	R	Appr 01/03/84
WA					
Colville Tribes 07-01-02691	Post & pole plnt (co)	04/26/83	400	R	Appr 10/26/83
Port Orchard 07-01-02700	Street ext & bridge (co)	04/26/83	600	R	Appr 11/08/83
Spokane 07-01-02697	Indus access rd (co)	04/26/83	600	U	DC/S
		TOTAL (PWIPs)	5,774 (580)		

LIST OF AUTHORIZED PUBLIC WORKS PROJECTS
AS OF 2/17/84

Region: Atlanta co=carryover Allocation: $22,504,400

Applicant/ Project No	Description/ Orig. Auth. ($000)	Auth. Date	Current Auth. EDA $(000)	U/R	Status
KY					
Richmond 04-01-03193	Site work on indus prk (co)	04/26/83	1,000	R	Appr 10/26/83
MS					
Warren Co. 04-11-03190	Bldg. site devel., utils & equip (co)	07/11/83	436	R	Comp "702"
SC					
Dorchester Co. 04-01-03215	Ext san swr to ind plnt (co)	04/26/83	256	R	Appr 01/03/84
		TOTAL (PWIPs)	1,692 (436)		

LIST OF AUTHORIZED PUBLIC WORKS PROJECTS
AS OF 2/17/84

Region: Chicago co=carryover Allocation: $23,027,800

Applicant/ Project No	Description/ Orig. Auth. ($000)	Auth. Date	Current Auth. EDA $(000)	U/R	Status
IL					
East Moline 06-01-01970	Water/swr ext for comm area (co)	05/13/83	172	U	Appr 01/03/84
MI					
Caro 06-11-01966	Sanitary & strm swrs, wtr & rd to indus prk (PWIP) (co)	04/26/83	730	R	A/S
Mackinac Isle 06-01-01972	Wtr syst for resort area (co)	05/09/83	1,000	R	A/S
OH					
Cincinnati 06-01-01962	Expand & renov conv ctr (co)	05/13/83	1,000	U	Appr 01/03/84
Stark Co. 06-11-01945	Constr h/way, san swrs for indus area (co)	04/26/83	1,345	U	FAPE 02/06/84
WI					
De Pere 06-01-01973	Infra improv for reloc & renov (co)	05/13/83	900	U	Appr 11/28/83
La Crosse 06-01-01980	Dev 32-acre indus prk (co)	05/13/83	250	U	RO
Tomah 06-01-01953	Sewer/wtr/sts in city-owned indus (co)	05/13/83	219	R	Appr 11/28/83
		TOTAL (PWIP)	5,616 (730)		

LIST OF AUTHORIZED JOBS ACT PROJECTS
AS OF 2/17/84

Region: Philadelphia — Allocation: $9,400,200

Applicant/ Project No	Description/ Orig. Auth. ($000)	Auth. Date	Current Auth. EDA $(000)	U/R	Status
NJ					
Jersey City 01-22-00034	Street/sewer impr ($496) (PWIP) (co) *		496	U	Appr 12/05/83
PA					
Williamsport 01-22-00022	Storm sewer ($135) (PWIP) (co)		135	U	Appr 01/03/84
Wyoming Valley Sanitary Auth. Luzerne Co 01-22-00024	Waste trmt impr ($1,000) (PWIP) (co)		1,000	R	Appr 01/03/84
PR					
San Juan Municipio 01-22-00017	Recr park facil. ($571) (PWIP) (co)		571	U	Appr 01-03-84
PR Aqued. & Sewer Auth. Toa Alta, Toa Baja, Dorado 01-21-00026	Waterline impr ($680) (co)		680	R	Appr 01-03-84
VA					
Suffolk 01-22-00015	Water trans/swr lines ($500) (PWIP) (co)		500	U	Appr 01/13/84
Winchester 01-22-00025	Regional trade ctr ($312) (PWIP) (co)		312	R	Appr 01/03-84
		TOTAL (PWIPs)	3,694 (3,014)		

*carry over (co)

LIST OF AUTHORIZED JOBS ACT PROJECTS
AS OF 2/17/84

Region: Austin

Allocation: $4,667,000

Applicant/ Project No	Description/ Orig. Auth. ($000)	Auth. Date	Current Auth. EDA $(000)	U/R	Status
AR					
Helena 08-21-00013	Site improv/ sewer ext. ($879) (co)		878	R	Appr 01-03-84
		TOTAL	878		

LIST OF AUTHORIZED JOBS ACT PROJECTS
AS OF 2/17/84

Region: Denver

Allocation: $3,005,100

Applicant/ Project No	Description/ Orig. Auth. ($000)	Auth. Date	Current Auth. EDA $(000)	U/R	Status
UT					
Mount Pleasant 05-22-00011	Public bldg. renov. ($201) (co)		247	R	Appr 01-03-84
		TOTAL	247		

LIST OF AUTHORIZED JOBS ACT PROJECTS
AS OF 2/17/84

Region: Seattle

Allocation: $6,349,900

Applicant/ Project No	Description/ Orig. Auth. ($000)	Auth. Date	Current Auth. EDA $(000)	U/R	Status
AZ					
Kingman 07-21-00012	Const water line for airport ind plant	08/15/83	229		Appr 12/30/83
CA					
Sacramento 07-22-00009	Replace sanitary sewer (PWIP)	08/24/83	929	U	Appr 12/20/83
Fresno Co 07-22-00010	Relocate irrig. canal (PWIP)	08/24/83	365		Appr
ID					
Wallace 07-22-00015	Upgrade fire stas (PWIP)	08/24/83	321		Appr
OR					
Douglas Co 07-22-00016	Dock rehab & instal (PWIP)	07-15-83	198		Appr 12/20/83
WA					
Quincy 07-21-00003	Roadway for ind & comm area	07/15/83	605		Appr 12/20/83
Lake Stevens Sewer Dist. 07-21-00007	Exp trmt plnt & const sewer ext.	08/29/83	888		Appr 12/20/83
		TOTAL	3,535		
		(PWIPs)	1,813		

LIST OF AUTHORIZED JOBS ACT PROJECTS
AS OF 2/17/84

Region: Atlanta — Allocation: $8,245,600

Applicant/ Project No	Description/ Orig. Auth. ($000)	Auth. Date	Current Auth. EDA $(000)	U/R	Status
FL					
Panama City Port Auth 04-22-00031	Repl bulkhead for dock, pave apron (PWIP)	08/29/83	500	U	Appr 12/20/83
Dundee 04-21-00021	Reservoir & pump equip for shop ctr	09/20/83	242		OPW
GA					
Floyd Co 04-21-00017	Water syst renov; sewage equip	08/09/83	282		Appr 12/20/83
KY					
West Liberty 04-22-00026	Water main loop (PWIP)	08/29/83	462		Appr 12/20/83
Falmouth 04-22-00028	Renov. reservoir & expand trmt plant (PWIP)	08/29/83	528		Appr 01/09/84
MS					
Neshoba Co 04-22-00003	Renov & weatherize courthouse (PWIP)	08/24/83	424		Appr 12/20/83
NC					
Warren Co 04-22-00009	Renov roof of county hospital (PWIP)	08/10/83	152		OPW
TN					
Maury Co 04-22-00013	Renov bldg for county gov't space (PWIP)	08/29/83	544		Appr 12/20/83
Fayette Co 04-22-00030	Upgrade & standardize county public facs (PWIP)	08/29/83	480		Appr 12/20/83
		TOTAL	3,614		
		(PWIPs)	3,090		

LIST OF AUTHORIZED JOBS ACT PROJECTS
AS OF 2/17/84

Region: Chicago

Allocation: $8,322,200

Applicant/ Project No	Description/ Orig. Auth. ($000)	Auth. Date	Current Auth. EDA $(000)	U/R	Status
MI					
Albion 06-22-00025	Renov bldg as incubator (PWIP)	09/02/83	123		Appr
Bay Co 06-22-00027	Upgrade county bldg to meet fire code (PWIP)	08/31/83	1,000		Appr
OH					
Norwalk 06-22-00024	Street, wtr, strm swr & waste sewers (PWIP)	08/22/83	471		Appr
WI					
East Troy 06-21-00028	Street & util exts for ind park	09/22/83	526		Appr
		TOTAL	2,120		
		(PWIPs)	1,594		

Title IX-SSED Project Pipeline

The following seven (7) Title IX-SSED applications totalling $3.4 million have been authorized for funding in fiscal year 1984:

1. An application from Wilcox County, Alabama, for $345,000 to purchase buildings and land from a building supply firm, recondition the property, and market it to wood products manufacturers.
2. An application from Marlboro County, South Carolina, for a RLF grant of $187,500 to be lent to a copper wire products firm to aid in its expansion and to create 100 new jobs.
3. An application from St. Marys, Georgia, for a grant of $3,190,000 ($790,000 EDA and $2,400,000 DoD transfer of funds) to expand area water and sewer infrastructure, in response to Navy's construction of Trident submarine base.
4. An $85,000 application from the Precision Valley Economic Development Corporation of Springfield, Vermont, to develop a Comprehensive Economic Adjustment Strategy.
5. An $100,000 application from the New York Urban Development Corporation to determine the feasibility of an employee group operating a candy manufacturing line at a closed A&P facility in Horseheads, New York.
6. An $758,000 application from the Downriver Community Conference, Wayne County, Michigan, to convert a closed high school to an industrial and commercial incubator space and to establish a Revolving Loan Fund.
7. An $1,100,000 application from the City of Pueblo, Colorado, to develop a 150-acre industrial site.

Question:

2. Please provide a copy of the program guidelines for FY 1984 and an estimate of when FY 1984 funding will be obligated.

Answer:

The FY 1984 program guidelines were announced in the Federal Register on December 14, 1983 for the loan guarantee program and on February 2, 1984 for all Economic Development Assistance Programs. Attached are copies of those announcements.*

The following plan was submitted to the Assistant Secretary for Administration for inclusion in the Department of Commerce's FY 1984 Plan for Financial Assistance Actions:

(dollar amounts in thousands)

	Actions	Value
October 1, 1983 thru December 31, 1983....	28	$17,140
January 1, 1984 thru March 31, 1984.......	489	66,442
April 1, 1984 thru June 30, 1984..........	270	55,002
July 1, 1984 thru September 30, 1984......	204	101,416
Total, FY 1984.......................	991	240,000

These, of course, are only our best estimates as of the beginning of the year; some modifications may be required as the year progresses, but we are absolutely committed to the execution of the full program by the end of the fiscal year as mandated by the Congress.

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*Retained in committee files.

Question:

3. Please provide agency FTE levels for FY 1980 through FY 1985 and the position classifications of individuals employed by the agency in FY 1985.

Answer:

The Budget Appendix of the United States shows the following FTE levels for EDA for FY 1980 through FY 1985:

(Total FTE)

1980 Actual	1981 Actual	1982 Actual	1983 Actual	1984 Estimate	1985 Estimate
887	746	480	465	455	250

The 250 FTE for FY 1985 includes 70 FTE (October 1, 1984 through December 31, 1984) for the 280 employees targeted for release on January 1, 1985. The position classifications of the 160 individuals who will remain employed for FY 1985 will be concentrated in the areas of financial analysis (debt collection), accountants, and administrative/secretarial support. The remainder of the staff will be program analysts responsible for monitoring and closing out existing projects. A precise position-by-position staffing plan has not yet been developed for the 160 position end-of-year level.

Question:

4. What are the overall guidelines used by EDA's Office of Liquidation in disposing of properties? What spcific means are used to advertise and market available properties? Would you comment on a recent report that EDA has advertised an industrial property near Tuscaloosa, Alabama as having "generous pollution allotments....no PSD monitoring required."

Answer:

The procedure followed by EDA in disposing of properties depends upon the particular circumstances of the situation. EDA's interest in physical property is as security for debt instruments it holds under a loan, or acquires under a loan guarantee. When there is a default under the debt instruments, EDA's obligation is to seek to reduce the loss to the Treasury, by sale of the instruments where that is feasible, or by sale of the physical property. In all such cases, EDA as the secured creditor is required to maximize recoveries through the disposition of property in a commercially reasonable manner.

In cases where property is held in a bankrupt estate, EDA determines whether it is advantageous to permit the bankruptcy court to dispose of the property or whether -- as in the case of the Tuscaloosa, Alabama property -- EDA should seek to acquire the property, and therefore direct control of the manner of disposition, by bidding in debt at a bankruptcy sale.

EDA's first actions in disposing of property are those necessary to protect the property and its value, to obtain fair appraisals of its worth, and to develop a disposition plan. Depending upon the value and nature of the property, EDA's efforts to inform potential purchasers for a public sale or negotiated sale will generally include wide local and/or national advertising; informing local and state business development organizations of the property's availability, with fact sheets and encouragement to assist in finding a buyer; and mailing notices to selected groups, industries or investors, including those individuals and firms that have asked EDA or the General Services Administration to be notified of properties being sold.

The industrial property near Tuscaloosa, Alabama to which you refer was acquired by EDA out of bankruptcy. During the year the facility was in bankruptcy, local and state industrial development groups actively sought a purchaser for the plant. The analysis performed by the two groups showed that one of the plant's major assets was the $5 million of pollution control equipment which had been installed at the site, bringing the foundry into compliance with pollution requirements. This was a major component in making monitoring unnecessary. The quoted advertisement language was in reference to this pollution

Question No. 4 Continued

control installation. As I stated in a letter replying to an inquiry from the editor of The Environmental Forum, shortly after my nomination to be Assistant Secretary, "there is no intent by EDA to subvert Federal or State environmental regulations in the sale or subsequent development of this industrial property."

When EDA acquired the property, it agreed with the earlier findings of the industrial development groups and continued the marketing thrust. As a result of EDA's efforts in marketing the Tuscaloosa property, there are now three new industries being developed on this site (which had been closed since December 1981). EDA estimates that, as a result of the methods it chose to dispose of this property, it has provided the catalyst for new investments from the private sector that may reach $50 million.

GSA General Services Administration
Washington, DC 20405

MAR 5 '84

Honorable Robert T. Stafford
Chairman
Committee on Environment and
Public Works
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

In response to your letter of February 10, 1984, enclosed is written testimony on the Fiscal Year 1985 Budget and answers to the questions attached to your letter. We look forward to the opportunity to appear before your committee in person at a later date. For the present, I trust you will find that the enclosed materials meet your needs. I would be pleased to discuss in greater detail any aspect of the General Services Administration's programs.

Sincerely,

Ray Kline

Enclosure

cc: Honorable Jennings Randolph
Ranking Minority Member
Committee on Environment and
Public Works
United States Senate
Washington, DC 20510

Testimony of Mr. Ray Kline
Acting Administrator, General Services Administration
Submitted to
Committee on Environment and Public Works
United States Senate

Members of the Committee,

I am pleased to have this opportunity to submit testimony to the Committee on the Fiscal Year 1985 budget for the Federal Buildings Fund (FBF). We look forward to Fiscal Year 1985 as a year of major achievements. The Presidential Initiative on Work Space Management Reform is the driving force behind the Public Building Service's (PBS) efforts to deliver quality space and services to tenant agencies at the lowest cost to the taxpayer. In line with our efforts to become more effective and efficient, we will concentrate on improving space utilization, improving productivity at all levels (field offices, regions, and headquarters) through office automation, updating our information management systems, increasing energy conservation efforts, and maintaining the value of our capital assets. As well as being top priorities of our own, improving space utilization, energy management and our management information systems were also key recommendations of the Grace Committee Report.

The Fiscal Year 1985 budget request is $2,227.8 million, an increase of $211.6 million or 10% over our 1984 new obligational authority of $2,016.2 million. In terms of actual vs. estimated obligations, the estimated obligations for Fiscal Year 1985 are $2,331.3 million, an increase of 19% over Fiscal Year 1983 actual obligations and 5% over Fiscal Year 1984 estimated obligations. The enclosed table details the amounts approved and requested for Fiscal Years 1984 and 1985, and the actual and estimated obligations for Fiscal Years 1983 through 1985 by budget activity.

Our request for Construction and Acquisition of Facilities places greater emphasis on the purchase of existing facilities than on new construction. We feel that current market conditions make purchasing the more economical method of satisfying the need for government-owned space, both to meet new requirements and to replace costly leased space. Of course, some Federal agencies require special purpose space in special locations which is not readily available in the marketplace. To in part satisfy these special needs, we are proposing to construct three border stations.

The Repairs and Alterations request has the largest increase for Fiscal Year 1985. The Fiscal Year 1984 authority of $87.5 million is unusually low due to the acceleration of $125 million in funding from Fiscal Year 1984 to Fiscal Year 1983 in connection with the "Jobs Bill." Of the $136 million increase in Fiscal Year 1985 over Fiscal Year 1984, $85 million is planned for basic repairs to restore buildings and equipment to a safe, sound and reliable state of operation; $41 million is for recapitalization projects; and $10 million is for space alterations resulting from changes in assignments and utilization, and essential to the success of our space reduction efforts. Our repairs and recapitalization programs include lifesafety and energy retrofit projects and, in general, are structured to maintain the value of our capital assets.

The Rental of Space request is $865 million, or $15.5 million less than our Fiscal Year 1984 authority. We anticipate that the leased space inventory will decline by 6.4 million square feet to a total of 81.7 million square feet by the end of Fiscal Year 1985. This reduction will be achieved primarily through improved space utilization. Our ultimate goal for space utilization is 135 square feet per person by 1990, and our near term goal is 150 square feet per person at the start of Fiscal Year 1985.

The Real Property Operations request of $695 million provides a level of building services commensurate with the level being provided in Fiscal Year 1984. Of the $38 million increase requested, the majority ($25 million) is associated with inflationary increases. An additional $7 million is related to moving requirements to effect space reductions, and $1.3 million will provide office automation technology to our field offices. Our Fiscal Year 1985 request also reflects a savings of $2.6 million in utility costs due to aggressive energy conservation efforts.

The Program Direction request includes key funding to support our efforts to reduce space, improve productivity through office automation at the regional and headquarters levels, and update our information management systems in line with Grace Committee recommendations. The request provides for increases of $3.5 million for support of the space reduction effort.

Finally, in Fiscal Year 1985 we are proposing to establish a new budget activity, Design and Construction Services, which will consolidate the full range of design and management support activities associated with PBS programs. The Fiscal Year 1985 requests for Construction and Acquisition of Facilities and Repairs and Alterations include site and construction costs only. All design, and management and inspection costs for new as well as ongoing projects are included in our request for Design and Construction Services.

Along with the Fiscal Year 1985 budget, we have also transmitted a Fiscal Year 1984 supplemental request in the amount of $50,000 for payment of a claim on the Topeka, Kansas, construction project. Design, management and inspection costs of the project were funded by appropriated funds which have expired, while site and construction costs were funded by Purchase Contract Indenture funds. This indenture collapsed on June 26, 1981, after which time no additional borrowings or obligations could be made. We are requesting a change to appropriation language in Fiscal Year 1985 which will make future supplementals for this size claim unnecessary.

On January 23, 1984, after the Fiscal Year 1985 budget was transmitted, a Fiscal Year 1984 reprogramming proposal was transmitted to the Committees on Appropriations. We are proceeding with the reallocation of these Fiscal Year 1984 resources. As this Committee has already received and reviewed the proposal, I will not go into it in detail here. As with the 1985 request, the driving force behind this reprogramming action is the President's space reduction initiative.

Turning from dollars to personnel resources, PBS employment has declined by 3,588 workyears from Fiscal Year 1980 to 1983. It is anticipated that employment will decline by an additional 319 workyears from Fiscal Year 1983 to 1985. These reductions have been achieved primarily through contracting out for building services, and have not adversely impacted PBS's ability to fulfill its obligations to tenant agencies.

In connection with the Fiscal Year 1985 budget request, we are proposing several changes to the Fiscal Year 1984 appropriation language. We have added a provision which will provide PBS with the authority to purchase heavy-duty law enforcement patrol sedans for the Office of Federal Protection and Safety (FPS) Mobile Patrol Program. Current price limitations prohibit FPS from purchasing vehicles with the durability, performance and special equipment necessary for law enforcement work. We have also added a provision for the direct funding of design and construction services, creating a new budget activity of the same name.

We have proposed the amendment of two provisions. The first of these deals with the payment of construction claims. When legal judgments over $10,000 arise on construction projects which no longer have obligational authority available (pre-FBF projects and purchase contract projects), we must request new obligational authority for the full amount of the settlement. Interest accrues on these claims until the funds are authorized and payment is made. The appropriation language as currently written allows for the payment under $10,000 from available funding after notification of the Appropriations Committees. This provision has not been effective in reducing the time required for payment of claims and the interest expense associated with these judgments. Our Fiscal Year 1985 proposal will raise that limitation to $100,000. Since Fiscal Year 1978, half of the claims paid have been under $100,000, including interest. Increasing General Services Administration's (GSA) authority to pay construction claims will reduce delay in payment and the interest costs to the Government.

The second amendment of an existing provision will eliminate the current requirement that advance approval of the Appropriations Committees be obtained for additional Repairs and Alterations line item projects which were not listed in the appropriation language. This change will improve PBS's responsiveness to emergency situations where the cost of work is expected to exceed $500,000. We will notify the Committees of our intention to undertake any additional projects.

New Obligational Authority
($'s in thousands)

Budget Activity	1984 Continuing Resolution	1985 Request
Construction and Acquisition of Facilities	$ 146,210	$ 89,877
Repairs and Alterations	87,517	223,749
Purchase Contract Payments	145,500	178,911
Rental of Space	880,500	865,000
Real Property Operations	656,500	694,998
Program Direction	100,000	117,040
Design and Construction Services 1/	-	58,227
Total NOA	$2,016,227	$2,227,802

Obligations
($'s in thousands)

Budget Activity	1983 Actual	1984 Estimate	1985 Estimate
Construction and Acquistion of Facilities	$ 179,272	$ 178,895	$ 125,719
Repairs and Alterations	168,174	263,773	295,790
Purchase Contract Payments	158,967	145,500	178,911
Rental of Space	766,518	865,500	865,000
Real Property Operations	600,813	656,500	694,998
Program Direction	89,862	100,000	117,040
Design and Construction Services 1/	-	-	53,871
Total Obligations	$1,963,606	$2,210,168	$2,331,329

1/ New budget activity in Fiscal Year 1985. These costs were previously distributed to the budget activities that financed the costs of the project.

Questions on the Budget of the Public Buildings Service
General Services Administration

QUESTION 1:

The President's Budget projects collections from Standard Level User Charges into the Federal Buildings Fund for FY 1985 which exceed estimated collections for Fiscal Year 1984 by 17 percent. How does this increase relate to those increases proposed and the actual amounts appropriated for Fiscal Years 1983 and 1984? If appropriations are not received to fund the projected increase for FY 1985, how would spending priorities be altered to accommodate the revenue shortfall?

ANSWER:

The estimated Standard Level User Charges (SLUC) income for Fiscal Year 1985 is $2,213.6 million. This is $14.2 million less than the new obligational authority requested for Fiscal Year 1985. This difference will be funded from the Fiscal Year 1984 unobligated balance, and leaves an unobligated balance of approximately $20 million to cover any shortfall in income before we would have to reduce our program level. If income estimates are reduced by more than $20 million, we would have to either request direct appropriations or reduce the 1985 program to remain within resources available. Because the Purchase Contract, Rental of Space, Real Property Operations and Program Direction activities largely fund fixed costs and operating costs such as debt repayment, lease payments and utilities, any significant reduction to income would mean a reduction to our capital investment program, thereby requiring us to defer 1985 projects to future years. This would mean fewer opportunity purchases and a reduced repair and alteration program which would, in turn, impede our ability to reduce the leased space inventory in future years and cause our leasing costs to rise over current estimates.

Question 2:

Net savings of $15.5 million for the Rental of Space budget activity are generated by the proposed release of 6.3 million square feet of leased space in FY 1985, the buyout of an additional one million square feet from existing lease contracts, and the planned release of 1.4 million square feet of leased space in FY 1984. To what extent do projected savings of dollars and space depend upon the timely delivery of new government-owned space into GSA's inventory or yet-to-be-realized successes in the initiative to reduce the office space allocated to Federal employees? What existing or proposed legal authority permits the buyout of existing lease contracts?

ANSWER:

All of these projected savings depend upon a combination of timely delivery of new government-owned space and the success of the space reduction initiative. We are placing great internal emphasis upon this program to ensure that we do our best to meet these goals. The authority that permits us to buyout existing lease contracts comes under our general authority, and is carefully exercised by our contracting officers when they determine that space will no longer be needed by the Government.

QUESTION 3:

What proportion of the proposed expenditure of $61.7 million for commercial rental rate increases is attributable to escalation clauses in existing leases? What inflation rate is assumed in the estimate:

ANSWER:

The proposed expenditure of $61.7 million includes $12.0 million for the annualization of tax and operating cost escalation clauses in existing leases which occurred in Fiscal Year 1984, and $13.4 million for the part-year costs of tax and operating cost escalation clauses in existing leases occurring in FY 1985. An annual inflation rate of five percent was assumed in the estimate for escalation clauses in existing leases.

QUESTION 4:

GSA states that it does not plan to transfer unobligated balances from incomplete New Construction or Repair and Alteration projects funded in FY 1984 and prior years to the Design and Construction Services budget activity. However, the justification for FY 1985 funded activity indicates that $13.7 million in new obligational authority is being requested for Design and Construction Services for New Construction and Repair and Alteration projects for FY 1984 and prior years. Why are the unobligated balances not being reprogrammed? Why is new obligational authority being requested for projects that have already received appropriations, including amounts for design and construction services which were not funded separately?

ANSWER:

The personnel costs associated with design and construction activities are now accumulated in an unfunded budget activity, and are periodically distributed through a cumbersome labor distribution system to the appropriate FBF direct or reimbursable area. This has become an extremely complicated fund control process resulting in cumbersome and time-consuming administration procedures, and lack of clarity in the determination of possible anti-deficiency act violations on specific line item projects.

The Fiscal Year 1985 budget provides for direct funding of these personnel costs, as well as design contract costs, under a separate no-year authorization. This funding method will allow the regional program manager some flexibility in allocating personnel resources and in making contract vs. inhouse decisions, and will both simplify and clarify our internal accounting procedures.

The unobligated balances for ongoing projects are not being reprogrammed to the new budget activity because of the recognized difficulties involved in such a process. Funds were appropriated for total project costs, and not for each of the categories of site design, construction, and management and inspection (M&I). At this time, it is not known exactly how much money will be required for each separate function to complete each project. To get a fairly accurate estimate of how much of each project's unobligated balance would need to be reprogrammed for design and M&I would require a thorough audit of each line item project before the beginning of Fiscal Year 1985. Even then, there could be errors when dealing with projects still under design or construction, and it would be both a time-consuming and costly process. Also, there are mechanisms in place which govern spending on line item projects. The prospectus limitation will still control the total amount which can be obligated on each project, even though the obligations will be incurred under two different budget activities. Once these projects are financially complete, the remaining unobligated balances will be officially declared as savings and can then be applied as needed with the proper approvals.

Discussion Items
FY 1985 Budget Briefing/Senate Public Works Committee
February 6, 1984

1. Changes in appropriation language:
    - (a) Purchase of vehicles
    - (b) Deletion of language which requires that projects over $500,000 have an approved prospectus before expenses are incurred.
2. Opportunity purchase program:
    - (a) Condemnation of Judiciary Center; how condemnation procedures are carried out.
3. (a) Design and Construction Services. Are such costs to be included in prospectuses?
    - (b) Agency position on whether prospectuses are required for R/A projects shown in justification needs to be established.
4. (a) PBS interface with CIA.
    - (b) Delegation of leasing authority.
5. Deficit balances on construction projects.
6. NOA vs. obligations for R/A, D/C.
7. Status of NRC consolidation.
8. Status of projects:
    - (a) Federal Triangle
    - (b) Blair House
    - (c) Pension Building - legislation, etc. Provide Committee with R/A cost per year and annual maintenance costs.
9. Total Government commitment for leases.

1. Changes In Appropriation Language

(a) Purchase of Vehicles

The current statutory price limitation of $6,000 for passenger vehicles (not to be exceeded by more than $1,700 for police-type vehicles) precludes the Public Buildings Service (PBS) from procuring vehicles equipped to meet the specialized performance needs of the Federal Protective Service (FPS).

The proposed FY 1985 language would provide PBS with the authority to purchase heavy-duty law enforcement patrol sedans for the FPS Mobile Patrol Program. FPS vehicles are often in continuous operation (24 hours - 7 days per week) performing patrol and other functions requiring added maneuverability, ease of handling and durability that vehicle models available within the statutory limitation for passenger vehicles are not designed to deliver. Consequently, 4-cylinder compact vehicles now used by the FPS are subject to inappropriate and costly levels of down-time for maintenance and repairs which, in the long run, would more than offset the added cost of a larger and better-equipped vehicle designed for the kind of use that FPS vehicles receive.

(b) Deletion of language which requires that projects over $500,000 have an approved prospectus before expenses are incurred.

The proposed FY 1985 change will eliminate the following language from GSA's Appropriations Act:

"That none of the funds available to the General Services Administration shall be available for expenses in connection with any construction, repair, alteration, and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for each project for required expenses in connection with the development of a proposed prospectus".

GSA believes that the subject language is not necessary because existing language in the Appropriation Act is adequate to limit funds for construction, alteration, and acquisition projects. Further, the language can be construed to permit existing appropriations to be available for projects approved by the Committees subsequent to enactment of the Appropriation Act. Any provision which makes use of existing appropriations conditioned upon subsequent approval of a committee or Committees of Congress has been found by the Department of Justice to be unconstitutional under the recent Supreme Court decision in INS v. Chadha. GSA's General Counsel has also advised that funds may be expended in the development of a proposed project without specific language in the Appropriation Act. Thus the language in the section stating that funds may be used for this purpose is not necessary.

2. Opportunity Purchase Program

(a) Condemnation of Judiciary Center; how condemnation procedures are carried out.

GSA's policy in acquiring facilities under the Opportunity Purchase Program is to acquire buildings at or below fair market value from willing sellers. It is not our intent to use condemnation, as this would be contrary to our policy of having a willing seller. GSA has no plans to use condemnation in order to acquire the Judiciary Center.

Under the provisions of Section 257 of Title 40, U.S.C., and the opinions of the Attorney General applicable thereto, whenever the Administrator of General Services is authorized to acquire real estate or interests therein, including the right to use and occupy, he may acquire such real estate, or the right to use and occupy, by condemnation proceedings under judicial process, if in his opinion it is necessary or advantageous to the Government to do so. This statute confers a duty upon the Attorney General to cause proceedings to be instituted within thirty days from receipt of the request therefore from the Administrator.

The acquisition of a right to use and occupy through condemnation proceedings is the exception rather than the rule. When suitable space for a tenant agency cannot be obtained through negotiations, the Regional Administrator may cause condemnation proceedings to be instituted by submitting the appropriate condemnation assembly to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice. The Department of Justice will then authorize the local United States attorney to file the documents in the United States District Court. The acquisition of the right of use and occupy will be accomplished by condemnation proceedings and the filing of a declaration of taking in conjunction therewith, as required.

3.(a) Design and Construction Services. Are such costs to be included in prospectuses?

Since the enactment of the Public Buildings Act of 1959, as amended (40 U.S.C. 612 Sec. 13 (6)), Federal Buildings Fund prospectus projects have included design, management and inspection costs in the prospectus amounts for the construction and repairs and alterations programs. Beginning in FY 1986, cost for the Design and Construction Services will not be included in the prospectus amounts for prospectus-level projects if the Public Works Committees have no objection to this change. These costs will, however, be identified separately in the body of the prospectus so that total project cost can be ascertained.

(b) Agency position on whether prospectuses are required for R/A projects shown in justification needs to be establish.

GSA has traditionally opposed the suggestion that advance design for repairs and alterations (R&A) projects be subject to the submission of a prospectus. This requirement would unnecessarily burden Congress with administrative responsibility and cause delays in project execution. Also, because of the lead time required for submission of prospectuses and obtaining funds based on prospectus approval, GSA feels that this requirement would hinder GSA's ability to perform effectively.

4.(a) Public Buildings Service interface with the Central Intelligence Agency

On March 31, 1980, GSA delegated leasing authority for domestic field offices up to 5,000 square feet to the Director of the Central Intelligence Agency (CIA). The purpose of this delegation was to:

o Improve the delivery process by providing space more expeditiously.

o Help alleviate the current backlog of space requests and allow GSA's limited resources to be directed toward major space acquisitions, thus using manpower more efficiently.

o Create a proper balance between space costs, delivery time and agency mission needs.

GSA has established a monitoring program to assure the delegation is exercised properly and consistent with uniform standards and criteria.

Implementing instructions and an amendment to the Federal Property Management Regulation reflecting this delegation have been made.

No restrictions have been applied as to the 5-year limit on delegation of leasing authority, or on the acquisition by the agency of space located in urban areas.

There is a requirement to furnish GSA with information concerning new space requirements so that availability of GSA-controlled space can be checked.

4.(b) Delegation of Leasing Authority

The Federal Property and Administrative Services Act of 1949 authorized the Administrator of General Services "to enter into lease agreements . . . which do not bind the Government for periods in excess of twenty years . . . ." It also authorized the Administrator "to delegate and to authorize successive redelegation of" that authority.

Federal Property Management Regulations Subpart 101-18.1 contains blanket delegations of leasing authority to several agencies; however they are limited to lease terms of 1 year or less. Subpart 101-18-105(b) states that agencies must receive a specific authorization from the Administrator of General Services to execute leases with terms exceeding 1 year.

Currently, there are in effect about 65 specific delegations of long-term authority to various agencies to lease a total exceeding 2 million square feet. Additionally, since 1979 we have made class delegations for long-term leasing authority to:

o The Department of Defense and Transportation (Coast Guard) for recruiting offices in urban centers.

o The Department of Agriculture for offices in non-major urban centers.

o The Central Intelligence Agency for field offices of 5,000 square feet or less.

o The Veterans Administration for out-patient and medical-related clinics.

The General Accounting Office, the National Academy of Public Administration and the Grace Commission have all recommended that GSA consider making increased delegations. Therefore, after evaluating some of the leasing activities executed under existing delegations, we will determine which agencies should be delegated class leasing authority, limited by size, type of space or geographic location. We will recommend that delegations be made when one or both of the following conditions apply:

(a) The space requested will be wholly or predominantly usable by the occupying agency for its special purposes and will not be generally suitable for the use of other agencies.

(b) The space requested is in areas where no other agencies are located and which are remote from GSA's regional offices.

When those conditions are present, it is often more cost effective for user agencies to award leases because they have personnel who are more familiar with special requirements and/or are more accessible to outlying proposed lease sites.

5. Deficit Balance on Construction Projects

Background

The Construction Services Fund (CSF) was authorized in 1946 and, from that time until September 30, 1982, provided the financing vehicle for the salaries of General Services Administration (GSA) employees engaged in the design, management and inspection, and other construction management activities related to a variety of Federal construction-type projects.

Beginning in 1964, the CSF operated on a concept wherein individual projects were charged a fixed price advance for services based on established fee schedules. Actual costs were not charged to projects, and profits and losses for separate advances were pooled without subsequent allocation to discrete projects and without final reporting of actual expenses by project or appropriation. This concept was confirmed by the GSA General Counsel in 1967 as being a valid method of operation.

The Inspector General of GSA completed a review of the CSF in early 1982 and determined that, for eighteen years, the operation of the Fund had violated the Anti-Deficiency Act. Individual projects should have been charged for the actual cost of construction services provided.

The Administrator of GSA took immediate action to correct the situation. It was determined that the CSF would be terminated as of September 30, 1982; as of that date, all assets, liabilities and equity were transferred to the Federal Buildings Fund. Beginning in Fiscal Year 1983, actual costs of construction management services have been charged to individual projects.

Deficit Balances

As a part of the CSF termination process, obligations incurred by active construction projects were adjusted to actual costs. As a result of this reconciliation process, a number of projects exceed their current funding availability, thus creating Anti-Deficiency violations (deficit balances). The deficit balances occurred both in the Federal Buildings Fund and certain appropriations whose funding was transferred to GSA by other Federal agencies. Pertinent information by project follows:

Federal Buildings Fund:

Name and Location	Amount of Deficit Balance
Federal Office Building, Pittsfield, MA	$ (3,689)
Federal Office Building, New Haven, CT	(9,851)

CONTINUE

Name and Location		Amount of Deficit Balance
Courthouse, Federal Office Building Annex, New York, NY		$ (457,381)
Foley Square Annex, New York, NY		(11,864)
Federal Office Building, Courthouse, Parking Facility, Fort Lauderdale, FL		(159,970)
Federal Office Building, Courthouse - Atlanta, GA		(721,713)
Federal Building, Post Office, Courthouse - Winston Salem, NC		(106,591)
Federal Building - Columbia, SC		(802,794)
Federal Building - Carbondale, IL		(101,524)
McNamara Federal Building - Detroit, MI		(349,990)
A. J. Celebreeze Federal Building, Cleveland, OH		(4,600)
Federal Office Building, Courthouse - San Diego, CA		(1,450)
Federal Office Building, Courthouse - Anchorage, AK		(5,490)
Federal Office Building, Washington, DC		(104,985)
FBI Academy - Quantico, VA		(39,810)
Federal Office Building, Parking Facility - Norfolk, VA		(180,661)
Total		$(3,062,363)
Transfer Appropriations:		
USDA, Forest Service Black Hills Supervisors Building, Custer, SD	$	(20,748)
District Office Building - Ambridge, PA		(1,741)
Total	$	(22,489)

Actions Taken

New Obligational Authority is being requested in the FY 1985 budget to cover deficit balances on sixteen construction projects incurred when the CSF was terminated.

As stated previously, there are two transfer appropriation projects which have costs which exceeded their current funding availability. The parent agencies have been advised of the deficiencies and asked to provide additional funding to cover the deficit balances.

6. RELATIONSHIP BETWEEN NEW OBLIGATIONAL AUTHORITY AND OBLIGATIONAL LEVEL -- FY 85 CONGRESSIONAL JUSTIFICATION

------A------	------B------	------C------	------D------	------E------	------F------
UDGET ACTIVITY	UNOBLIGATED AUTHORITY CARRIED OVER FROM FY-84 & PRIOR YEARS	FY-85 NEW OBLIGATIONAL AUTHORITY	(B+C) TOTAL FY-85 AVAILABILITY	FY-85 OBLIGATIONAL LEVEL	(D-E) PLANNED FOR CARRYOVER TO FY-86 & FUTURE YEARS
ONSTR/ACQUIS	161,590	89,877	251,467	125,719	125,748
& A TOTAL	127,217	223,749	350,966	295,790	55,176
& C SERVICES	0	58,227	58,227	53,871	4,356
OTAL NO-YEAR	288,807	371,853	660,660	475,380	185,280
PURCHASE CONTRACTS	-	178,911	178,911	178,911	-
ENTAL OF SPACE	-	865,000	865,000	865,000	-
REAL PROPERTY OPS	-	694,998	694,998	694,998	-
PROGRAM DIRECTION	-	117,040	117,040	117,040	-
OTAL ANNUAL	-	1,855,949	1,855,949	1,855,949	-
TOTAL DIRECT	288,807	2,227,802	2,516,609	2,331,329	185,280

7. Status of Nuclear Regulatory Commission (NCR) Consolidation

Congress approved a Federal construction project in 1980 which would have consolidated NRC offices in Silver Spring, Maryland. NRC would not support the Silver Spring site; therefore, GSA cancelled the project and notified the Congress on December 1, 1982, that we were deleting the project from our construction program.

At this point, it appears that total consolidation of NRC will be in the distant future. GSA has begun working with NRC officials to consider an interim consolidation. In that regard, representatives of NRC and GSA met on March 14, 1984, to set the groundwork for a new proposal. As a result, NRC will assemble and provide a complete summary of their space and location requirements to GSA, so that we can develop a mutually acceptable interim consolidation plan. The plan is expected to involve the consolidation of several locations, including the replacement of several below-average leased buildings in Montgomery County, Maryland. In addition, the lease on the NRC space in the Matomic Building will expire in August 1985, and GSA does not plan to extend it; therefore, we will also seek acceptable replacement space in which to house the offices of the NRC Commissioners and staff in downtown Washington, DC.

8.(a) Federal Triangle Washington, DC

Funds in the amount of $3.5 million were included in the FY 1983 Continuing Resolution for the preliminary design of the proposed Federal Triangle completion, which provides for the construction of two Federal office buildings.

The current administration policy precludes the Public Buildings Service from undertaking any work, including predesign, on the Federal Triangle project at this time. The administration may decide to pursue this project in the future; therefore, we have no plans to rescind the $3.5 million available for design.

Because of budget constraints, no funds for design completion were requested in the FY 1984 budget. The prospectus for design completion, providing for an expenditure of $8.9 million, was withdrawn from the Office of Management and Budget on October 27, 1983.

A decision on whether to proceed with the project is pending.

8.(b) Blair House

The Blair House was closed when hazardous conditions in the heating and domestic hot water systems were discovered. GSA has reassumed control of the facility, which had been operated and maintained by the Department of State. A limited appropriation of $2,000,000 was provided in FY 83 for design development. Approximately $52,000 had been obligated through the end of FY 83 for procurement of the Architect-Engineer, a Historic Structures Report, and Scope Verification. The House Public Works Committee held hearings but did not approve the prospectus.

Major system and structural upgrading will be accomplished, including the electrical, heating, plumbing and air-conditioning systems, roof repairs, installing fire and lifesafety systems, and improving the physical security. In addition, the complex will be expanded by constructing a new wing on the west side.

The estimated cost of the project is $9,000,000. $2,000,000 was provided in FY 83, and the remaining $7,000,000 is requested in FY 85 for project design and construction.

8.(c) Pension Building

By Public Law 96-515, GSA was directed to renovate the Pension Building and convert it into a National Building Museum. The attached proposed bill provides that the Secretary of the Interior, shall have custody and control of the building, establishes a bureau of the Smithsonian Institution to operate a National Building Museum in the Pension Building, and calls for the Secretary of Interior to renovate the building with the advice of the Secretary of the Smithsonian Institution. The proposed bill was transmitted to Congress and has been introduced as S.2605.

Aside from this proposed legislation, the Public Buildings Service will proceed with design work, roof repairs and selected space alterations covered by the $7.3 million that has already been appropriated to GSA for this work.

Following are the Repairs and Alterations costs per year and annual maintenance costs:

Pension Building	FY 1983 act. ($000)	FY 1984 est. ($000)
Repairs and Alterations	321.3	4,020.0
Maintenance	60.6	63.0
Total	381.9	4,083.0

A Bill

To authorize the Administrator of General Services to convey property to the Committee for a National Building for the Museum Arts, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that in order to provide a national center to commemorate and encourage the building arts and to preserve and maintain a nationally significant building which exemplifies the great achievements of the building arts of the United States, the Administrator of General Services is authorized to convey, without monetary consideration, all rights, title and interest of the United States in the Federal Building located in the block bounded by Fourth Street, Fifth Street, F Street, and G STreet, Northwest in Washington, District of Columbia to the Committee for a National Museum of the Building Arts, Incorporated, a non-profit corporation organized and existing under the laws of the District of Columbia, or its successor.

Section 2. The Deed of Conveyance -

(1) shall provide that the property be renovated and maintained in perpetuity in a manner to preserve, enhance, and restore the distinctive and historically authentic architectural character of the site consistent with the needs of a national museum of the building arts, and other compatible use; and that the Corporation shall afford the Advisory Council on Historic Preservation established under section 470i to 470n of Title 16, United States Code, a reasonable opportunity to comment with regard to any renovations or alterations in accordance with regulations established by the council applicable to Federal agencies;

(2) shall provide that if the Administrator determines, at his sole discretion after consultation with the Secretary of the Interior and the Secretary of the Smithsonian Institution, that the Corporation has not received sufficent funds or property by donation or otherwise within five years after date of enactment, to operate a viable museum, and to maintain and renovate the building in a manner adequate to preserve, enhance, and restore its distinctively and historically authentic architectural character, the property in its existing conditions, shall revert to the United States; and

(3) may contain such additional terms, reservations, restrictions, and conditions as may be determined by the Administrator to be necessary to safeguard the interests of the United States.

Section 3. Section 570w-5 of Title 16, United States Code is repealed.

9. Total Government Commitment For Leases

The total Government commitment for leases is defined as the total dollar amount of obligations which the Government owes contractually over the firm term of its active leases. The total GSA commitment for leases is $2,734,845,000 as of March 30, 1984.

Federal Emergency Management Agency
Washington, D.C. 20472

February 24, 1984

Honorable Robert T. Stafford
Chairman, Committee on Environment
and Public Works
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is in response to your letter of February 10, 1984, to Mr. Louis O. Giuffrida, Director, Federal Emergency Management Agency. The enclosed material contains the information you requested concerning the FEMA budget as it relates to Disaster Assistance Programs authorized under P.L. 93-288.

Should you have any additional questions, please let me know. I look forward to working with you on this and the proposed legislation to amend the Disaster Relief Act.

Sincerely,

Samuel W Speck

Samuel W. Speck
Associate Director
State and Local Programs and
Support

Enclosure

1. Q. Please discuss in detail the budget request for fiscal year 1985. How do these figures compare to the amounts actually obligated in fiscal year 1983 and the amounts appropriated in fiscal year 1984.

A. Our appropriation request for FY 1985 for the President's Disaster Relief Fund is $100 million. In fiscal year 1983, $245,231,000 was obligated. For fiscal year 1984, no appropriation request was made and there have been no appropriations to date. The FY 1985 request was based on historical trends in the program and the admonition of the committees not to have balances in the fund which would require a supplemental appropriation.

2. Q. Please discuss the rationale for the increases or decreases in the level of funding for fiscal year 1985. In areas where programs are increased, indicate whether these budgetary increases are tied to new agency initiatives or an increase in ongoing programs. Specify what the additional funds will provide. In the programs where reductions have been made, what specific areas of the program will be reduced or eliminated and what will be the effect of these reductions on operation of the program? If there is no change in funding from last year, have any changes been made in program priorities?

A. There has been no program change for fiscal year 1985. The request level reflects no program increases or decreases.

3. Q. What personnel increases or decreases are being proposed? How will this affect the agency's ability -- including any aditional time it may take -- to carry out its program responsibilities?

A. No personnel increases or decreases are being proposed.

4. Q. Please discuss any rescissions, deferrals or supplementals requested for FY 1984

A. No rescissions, deferrals or supplementals have been proposed to date.

5. Q. Please indicate if any legislative initiatives are necessary, or are being considered, to implement any part of the agency's fiscal 1984 budget request. If so, please describe these proposals and specify the budgetary impact of each provision.

A. The Administration has proposed amendments to the Disaster Relief Act that are contained in S-1525 which is pending before this committee. Should that legislation be adopted during this session of Congress the changes would begin to take effect in fiscal year 1985. Attachment A summarizes the principal elements of that legislation and the related estimates of costs and savings.

6. Q. Specify whether and where any of the actions proposed in the budget reflect recommendations of the Grace Commission.

In addition, we request that you respond to the attached list of questions, and submit this as part of your testimony.

A. The budget and the proposed legislation both take into account the recommendations of the Grace Commission. One specific item they addressed involves the relationship between disaster assistance and flood insurance. The Act as it now stands does not require State and local governments to insure against initial losses to property as a prerequisite to receiving disaster relief. The Grace Commission recommends that assistance be denied if appropriate insurance was not in place. Accordingly, S-1525 would deny to State and local governments Federal assistance for the repair and restoration of their insurable public facilities to the extent that damage for which assistance is requested could have been compensated by reasonably available, adequate and necessary flood insurance. This restriction would not in any way preclude or deny other forms of disaster or emergency aid provided under PL 93-288.

The Grace Commission also observed that ADP systems throughout the Federal Government need to be improved. FEMA is committed to that goal especially in support of disaster operations where the delivery of assistance in a timely and reliable fashion is so crucial. This will involve enhancement and development of systems as well as leasing of new equipment. The equipment and the improved systems will prove particularly important for disaster operations in the field.

1. Q. Why does the budget project a program level of $350 million in FY 1985?

   A. The major reason for the increased level for FY 1985 is a belief that recent downtrends in the level of disaster activity experienced during FY 1982 and FY 1983 are not indicative of "normal" disaster activity. The attached chart shows, that even with recent years factored in, average annual obligations exceed $350 million.

2. Q. Why are you requesting an appropriation of $100 million for FY 1985 when you expect to carry funds in excess of that amount over the FY 1986?

   A. The reason for the request level is twofold:

   1. Again referring to the chart the projected carryover is historical in the fund, averaging more than double our projected carryover into FY 1986.

   2. The fact that we have heeded committee admonition to maintain a sufficient balance in the fund in order to avoid a supplemental appropriations request.

DISASTER FUND
($000)

Fiscal Year	Request	Supplemental Request	Appropriation	Obligations	Carryover
1974	100,000	300,000 32,600	432,600	374,827	196,360
1975	100,000	100,000	200,000	192,020	204,340
1976	150,000	-0-	150,000	242,725	111,615
Trans Qtr.	37,500	-0-	37,500	83,301	65,814
1977	100,000	200,000	300,000	363,695	4,165
1978	150,000	150,000 150,000	440,716	442,947	6,280
1979	200,000	200,000	386,772	373,365	19,687
1980	193,600	870,000	1,063,600	849,095	234,192
1981	375,570	-0-	358,449	228,964	363,677
1982	400,000	-0-	301,694	115,114	527,984
1983	325,000	-0-	130,000	245,231	593,494 *
1984	-0-	-0-	-0-		
1985	100,000				
TOTALS			3,801,331	3,511,284	2,327,608
AVERAGES			370,862	319,208	211,600

* Includes $]80 million, recovery of prior year obligations.

ATTACHMENT A: PROPOSED AMENDMENTS TO P.L. 93-288

PROGRAM	COSTS	SAVINGS
PUBLIC ASSISTANCE		
75/25		50 million/yr on average.
Small Project Grants (estimate of cost)	No increase in final grant cost	Considerable savings in Administrative costs.
Denial of assistance for lack of flood insurance	No additional cost	
Recovery of Funds	No significant increase in cost	Savings from funds recovered plus deterrent effect on fraud.
Flexible Funding	NO increase	$1 million /av. yr.
INDIVIDUAL ASSISTANCE		
IFG Admin. Cost Increase	$775,000 /av.yr.	
Temporary Housing eliminate rent-free 18 month limit Group site development	NO increase	$1 million/average year.
DUA .eliminate where other unempl being paid .limit to 26 weeks .eliminate payment of waiting week	No Increase	Savings in administrative costs, and program funds.
Duplication of Benefits	No significant change	Possible administrative cost saving to FEMA.
HAZARD MITIGATION		
Mitigation Grants	$2 million/av. yr.	Savings, undefined at present, from future lessening & prevention of disaster related damages.
PREPAREDNESS GRANTS		
Increase fom $25k to $50k	Additional $1,475k/yr.	Savings in improved response and lower disaster costs.

ATTACHMENT A (cont.)

PROPOSED AMENDMENTS TO P.L. 93-288; Forwarded to Congress on 6/10/83

BASIC AUTHORITIES

Major Disaster - Limited to incidents enumerated, plus other "natural" catastrophes.

Emergency - Federal assistance supplemental to State efforts to save lives and protect property. Requires a Governor's request. Limited to $5 million.

Presidentially Initiated Emergency Declaration - Declared directly by the President with consultation of Governor where practicable, when primary responsibility rests with the Federal Government. Available assistance as for other emergencies.

PUBLIC ASSISTANCE

Cost Sharing - Limit Federal share of restoring public facilities to 75%. Emergency and technical assistance provided at 100%.

Small Project Grants - Allow grant for any project under $25,000.

Flood Insurance - Deny Federal assistance if available flood insurance was not obtained, or properly maintained.

Recovery of Funds - Authorizes suits to recover costs, and would allow the President to authorize audits and investigations.

INDIVIDUAL ASSISTANCE

IFG - Permit reimbursement of 50% of allowable administrative expenses above 3% of grant total. Any advance of State 25% share to bear interest, but payment may be deferred for two years.

Temporary Housing - Eliminate rent-free period, and require individuals to contribute to cost. Federal payment of 75% of costs for developing group sites. Would limit FEMA involvement to a maximum of 19 months.

DUA - Pay only when person not otherwise eligible under UI programs. No payment for waiting week. Limit assistance to 26 weeks.

PREPAREDNESS AND MITIGATION

Preparedness Grants - Increase level from $25,000 to $50,000.

Hazard Mitigation - Establish in statute a requirement for State plans. Provide funding for hazard mitigation projects, limited to 2.5% of Federal estimate for permanent restorative work on a 50/50 matching basis.

DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION
WASHINGTON, D.C. 20590

OFFICE OF
THE ADMINISTRATOR

February 28, 1984

IN REPLY REFER TO HCC-10

The Honorable Robert T. Stafford
Chairman, Committee on Environment
and Public Works
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

This is in response to your letter of February 10, cosigned by Senator Jennings Randolph, asking that we submit written answers to six questions relating to the Department of Transportation budget proposal for fiscal year 1985 which are enclosed. Please contact me if I can be of any further assistance to the Committee in expediting your report to the Committee on the Budget.

An identical letter is being sent to Senator Jennings Randolph.

Sincerely yours,

Ray Barnhart

R. A. Barnhart
Federal Highway Administrator

Enclosure

Testimony Question 1
D#45

FHWA FY 1985 BUDGET REQUEST

QUESTION: Please discuss in detail the budget request for fiscal year 1985. How do these figures compare to the amounts actually obligated in fiscal year 1983 and appropriated in fiscal year 1984?

ANSWER: Following is a detailed summary of the budget authority, obligations and outlays for fiscal years 1983, 1984, and 1985 for the FHWA as shown in the President's Budget for FY 1985 (including Appalachia budget):

(dollars in thousands)

	FY 1983	FY 1984	FY 1985
Budget Authority	$13,266,038	$13,981,810	$14,783,834
Obligations (program level)	13,465,476	13,509,456	14,114,013
Outlays	8,949,150	11,362,420	13,255,585

Testimony
Question No. 2
HFS-10

BASIS FOR FHWA FY 1985 BUDGET REQUEST

QUESTION: Please discuss the rationale for the increases or decreases in the level of funding for fiscal year 1985. In the program where reductions have been made, what specific areas of the program will be reduced or eliminated, and what will be the effect of these reductions? In areas where programs are increased, what will the additional funds provide? If there is no change in funding from last year, have any changes been made in program priorities?

ANSWER: FHWA's budget request for FY 1985 is based on the authority provided by the Surface Transportation Assistance Act of 1982. Our budget proposal generally follows that legislation except that we are proposing an increase of $325 million in the obligation limit for Federal-aid highways for FY 1985 -- from $13.550 billion to $13.875 billion. This change is made up of an increase of $600 million in the limitation to include all programs, except Emergency Relief, exempted by the 1982 Act from the limitation, and a decrease of $275 million consistent with the Administration's policy of off-setting the FY 1983 Job's Bill increase. The Job's Bill advanced $800 million dollars in highway construction funding as one of the bill's economic recovery measures. To keep total highway funding at the STAA levels, it has been our policy to off-set the $800 million over the years 1985 to 1987, with a $275 million off-set in 1985 and $250 million in 1986 and 1987.

In addition to implementing the 1982 STA Act within existing or, even reduced personnel and administrative resources, the 1985 FHWA budget reflects the Administration's safety priority. This priority is evidenced by doubling or near doubling of the Motor Carrier Safety Grants program and Motor Carrier Safety contract research, a significant increase in Highway Safety Research and Development request, and increases in other contract programs where safety is a key element.

Finally, FHWA is submitting as a separate budget to the Energy and Water Development Appropriation Subcommittee, a request that a general fund appropriation of $80 million be made directly to FHWA.

Testimony

Question No. 3
HFS-10

FHWA PROPOSED ACTION RESPECTING EMPLOYMENT LEVELS

QUESTION: **What personnel increases or decreases are being proposed? How will this affect the agency's ability--including any additional time it may take to carry out its program responsibilities?**

ANSWER: FHWA is reducing full-time equivalent workyears by 90 (2.5%) from FY 1984 appropriated to FY 1985 request. These reductions result primarily from management efficiency recommendations, internal Departmental changes, and a program reduction in the Federal Railroad Administration's Northeast Corridor project to which FHWA had allocated personnel resources.

Question No. 4
HFS-10

RECISSIONS, DEFERRALS, SUPPLEMENTALS

QUESTION: **Please discuss any recissions, deferrals, or supplementals requested.**

ANSWER: We are proposing no deferral or rescissions of budget authority in our FY 1985 budget request.

We are requesting a supplemental appropriation for FY 1984 in the Motor Carrier Safety account in the amount of $114 thousand and an increase in the Limitation on General Operating Expenses account in the amount of $2.648 million to cover the increased salary costs associated with the latest pay raise.

Testimony
No.5

LEGISLATIVE INITIATIVES ASSOCIATED WITH FHWA FY 1984 BUDGET REQUEST

QUESTION: Please indicate if any legislative initiatives are necessary, or are being considered, to implement any part of the agency's fiscal 1985 budget request. If so, please describe these proposals.

ANSWER: We do not believe any legislative initiatives are necessary to implement our budget. The transfer of authority and direct appropriation of Appalachian Highway Funds to FHWA would be accomplished through the appropriation process.

Testimony
QUESTION 6
HFS-10

QUESTION: Specify whether and where any of the actions proposed in the budget reflect recommendations of the Grace Commission.

ANSWER: The Grace Commission's recommendations for FHWA are still being reviewed. The 1985 budget does not contain any recommendations exclusive to the Grace Commission. Our own analysis, which includes review of the Grace Commission report, has led to reducing FHWA's total full-time equivalent work-years by 90 due to management efficiency recommendations, internal Department changes, and a program reduction in the FRA's Northeast Corridor project to which FHWA has allocated personnel resources.

March 3, 1849

United States Department of the Interior

FISH AND WILDLIFE SERVICE
WASHINGTON, D.C. 20240

ADDRESS ONLY THE DIRECTOR
FISH AND WILDLIFE SERVICE

FEB 2, 1984

Honorable Robert T. Stafford
Chairman
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Thank you for your letter requesting information on the President's proposed fiscal year (FY) 85 budget for the U.S. Fish and Wildlife Service (FWS). Attached are responses to your questions. Copies of my prepared testimony have been delivered to the Committee staff. We have also provided your staff with additional supplementary material, including "The Interior Budget in Brief."

This material should provide you with the information needed for your report to the Committee on the Budget. If you need additional information, please do not hesitate to contact me.

Sincerely,

F. Eugene Hester
Acting Director

Enclosure

TESTIMONY OF ROBERT A. JANTZEN, DIRECTOR, U.S. FISH AND WILDLIFE SERVICE DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE COMMITTEE ON ENVIRONMENT AND AND PUBLIC WORKS, CONCERNING THE FY 1985 PROPOSED BUDGET FOR THE U.S. FISH AND WILDLIFE SERVICE

FEBRUARY 24, 1984

Mr. Chairman, I appreciate the opportunity to discuss the President's proposed fiscal year 1985 budget for the U.S. Fish and Wildlife Service. Our proposed budget shows an increase of $21.6 million over the FY 1984 appropriation. In addition to continuing current year work, we will be undertaking several new initiatives.

Before turning to an explanation of the FY 1985 budget request, I would like to briefly recap some of our accomplishments over the past year.

During 1983, Currituck National Wildlife Refuge (NWR) was approved for addition to the National Wildlife Refuge System. This addition will bring the refuge system total to 418 units with 89.8 million acres. The new 5,175-acre addition will provide important habitat protection along the North Carolina coast for tens of thousands of wintering waterfowl, and is an excellent example of a public/private partnership to achieve conservation goals. The addition is made possible by The Nature Conservancy, which purchased the land, for resale to the Service.

Since the resources entrusted to us are the heritage of all our nation's people, in managing our lands we attempt to maximize public use and benefits consistent with fish and wildlife conservation. During 1983 greater public use opportunities were presented, including new opportunities for hunting on 13 refuges and for recreational fishing on 24 refuges. The development of visitor facilities and the promotion of onsite programs have markedly enhanced the experience of visitors to national wildlife refuges.

As you know, we previously proposed to terminate operational responsibility for fish hatcheries which primarily supported State recreational fisheries programs. Congress agreed with this underlying rationale and ended Service funding of 14 hatcheries in FY 1983. I am pleased to report that none of these hatcheries has been closed but, with transfer to State control, will continue to provide benefits to fishery resources and enhance recreational fishing opportunities. In 1984, the States will operate 14 fish hatcheries previously funded by the Service and the BIA will fund operation of 4 other hatcheries. We have, I think made progress toward redefining the Federal role and responsibilities with respect to the nation's fishery resources. The FY 1985 budget will enhance our capability for effective operation of the 65 hatcheries retained in the Federal system as one part of our commitment to those resources.

One of our highest priorities over the past three years in endangered species has been the development of recovery plans for our endangered and threatened wildlife and plant species. During fiscal year 1983, 43 recovery plans were approved and an additional 61 plans were in the draft stage of development. At the end of FY 1983 there were draft or final recovery plans developed for 74 percent of the 293 U.S. listed species listed at that time.

Exceptional progress has been made in a number of our recovery programs. Our national symbol, the majestic bald eagle, is coming back. Historically the bald eagle was a common species along our coastlines, inland lakes and rivers. Eagles were known to nest in 45 of the lower 48 States. Unfortunately, due to loss of habitat and the use of the pesticide DDT, by 1963 only 417 active bald eagle nests could be found. Today, the number of active eagle nests has increased to 1,480.

The peregrine falcon is another species that has benefitted from captive breeding and release programs. Peregrines are again nesting in the Eastern region, in areas where none has nested since the 1960's.

Last year was also a productive one for our law enforcement efforts. We concluded a major investigation into the illegal killing and marketing of bald eagles and other federally protected birds, resulting in the arrest of 50 people in eight States. The investigation disclosed that more than 300 bald eagles had been killed to supply a black market trade in Native American artifacts. We also completed a six-month undercover investigation by Fish and Wildlife Service and State wildlife law enforcement officers which disclosed a massive illegal trade in game fish poached from public waters in Oklahoma and illegally marketed throughout the Midwest. More than 60 persons were charged in the case.

The Service's outreach to involve corporations and other private organizations in the protection and management of natural resources is increasing annually. This is in keeping with the Administration's policy of having the private sector play an expanded role in public policy issues. More than 50 private corporations and organizations are now involved in helping promote the sale of "Duck Stamps" to non-hunters. The continued support of the Seagram Distillery and the Du Pont Company in our bald eagle recovery program is an excellent example of this type of public/private sector cooperation. We are already pursuing new opportunities for this kind of cooperation in 1984. For instance, the Departments of the Interior and Agriculture will soon be signing a Memorandum of Understanding with Ducks Unlimited (DU) to facilitate cooperative efforts in the management of breeding waterfowl habitat on Federal lands in the lower 48 States. We hope to duplicate the success of the similar DU program in Canada.

This year we will be celebrating the 50th Anniversary of the Duck Stamp. There has been $285 million generated by the sale of Duck Stamps since 1934 for the purchase of 3.5 million acres of wetlands and other wildlife habitats that are now part of 186 national wildlife refuges. We look forward to participating this year in numerous activities commemorating the initiation of this program.

Turning now to the FY 1985 budget, we have provided the Committee staff with information explaining the details of our proposal. I would like to discuss the highlights of that request at this time.

Mr. Chairman, as you well know, perhaps the most critical aspect of fish and wildlife conservation is adequate land and water for these resources. Management, protection and enhancement techniques ensure that the Service can carry out its congressionally mandated responsibility to provide for the nation's waterfowl, endangered species and anadromous fish. Thus, we are proposing for FY 1985 major budget initiatives focused on protecting priority habitat that include the following areas:

- wetland conservation
- acidified surface water restoration
- contaminant impacts on fish and wildlife resources

A fourth major initiative deals with conservation of endangered species.

The first thrust reinforces the Department's commitment to the conservation of wetland resources through an acceleration of Federal wetland acquisition. The country is losing wetlands at a rate of nearly 500,000 acres every year. Wetlands provide habitat essential for the breeding, spawning, nesting, migration, wintering, and survival of a major portion of the nation's migratory and resident fish and wildlife.

To help counteract these losses, we are proposing a $57.5 million acquisition program. As a new initiative we will be requesting $20 million for Federal wetlands acquisition funded through the Land and Water Conservation Fund (LWCF). This is intended to conserve an additional 21,035 acres of wetlands habitat. Areas included are Cache River in Arkansas, Humboldt Bay NWR in California, Anderson-Tully in Tennessee and Ridgefield NWR in Washington. State participation in wetlands conservation will be encouraged through a program of matching grants funded out of the Land and Water Conservation Fund. We are requesting $7.5 million for this purpose. State projects may include actions to improve or restore wetlands in addition to acquisition proposals. An increase of $800,000 will fund a study directed at identifying wetland losses and providing recommendations for alternatives for conserving wetlands.

The remainder of our acquisition program includes $29 million under our existing LWCF program to acquire an additional 45,540 acres of fish and wildlife habitat for 14 refuges. Also included is $1 million for refuge acquisition management. While I am discussing land acquisition, I will mention that we anticipate receiving $16.4 million in receipts from the sale of Migratory Bird Hunting and Conservation Stamps in FY 1985, this will enable us to purchase 33,160 acres of important breeding, migration and wintering habitat for waterfowl.

President Reagan has proposed for FY 1985 a major, new acid deposition research program. In conjunction with this initiative, the Service is recommending a budget increase of $6 million under our Habitat Resources program to develop restoration techniques for acidified surface waters through pilot demonstration projects in several States. Operational activities ($5 million) emphasizing the application of lime or other buffering agents to alter the chemical balance of lakes will be accomplished through cooperative agreements with States. Research activities ($1 million) will evaluate the effectiveness of the liming and develop a manual of procedures and techniques to assist resource managers in mitigating the impacts of acidified surface waters upon fishery resources. The refinement of these techniques will allow resource managers to move quickly to restore these waters.

Another major initiative shown under the Habitat Resources program is directed towards improving the quality of fish and wildlife through increased monitoring and research activities on the effects of various contaminants on fish and wildlife resources. The monitoring program, which will be increased by $1.2 million, enables the Service to identify geographic areas and specific contaminants where there is the greatest potential for adverse effect to the resource. The Service will increase efforts to identify unknown contaminants and to expand monitoring both on and off Service lands including coastal wetland areas, the Southwest, and the Hudson River. Research efforts will be increased by $378,000 and will focus on developing improved understanding of the impacts of new classes of chemical contaminants and determining management actions that may be warranted for regionally identified contaminant concerns. Specific areas of research will include West Coast salmon migration studies, contaminant levels in Galveston Bay sediments and screening of chemicals identified through the monitoring activities.

Finally, our last major initiative involves new emphasis on listing, and continued emphasis on the recovery, of species under the Endangered Species Act of 1973. We are requesting an overall increase of $3.3 million for this purpose. This includes an increase of $2 million in grants to the States, bringing the total grant program to $4 million for endangered species conservation efforts.

Let me now briefly summarize the changes in each of the program areas. Since the material we provided the Committee staff addresses our proposed budget in detail, I will highlight only the most significant changes from the FY 1984 budget.

RESOURCE MANAGEMENT

Habitat Resources - I have already described the increases in this program that we are requesting for acidified surface water and contaminant monitoring operations and research activities. Another change we are proposing under this program is the restructuring of the Cooperative Units Program by combining separate fish and wildlife units. The issues in natural resource management facing the Service and its State and university cooperators increasingly require interdisciplinary research. The new structure will make the Unit Program more flexible and responsive to our research needs. We have already notified the Appropriations Committee of our intent to combine units in one State and will continue such notification as other units are to be combined. We are proposing that there be 24 combined fish and wildlife units and 5 fishery units.

Wildlife Resources - An additional $3.04 million over the FY 1984 appropriation is requested for this activity. Of this amount, $1.3 million is requested to continue the improvements in facility, equipment, and habitat maintenance achieved through the Accelerated Refuge Maintenance and Management (ARMM) program initiated in FY 1984. The ARMM program is designed not only to provide funding to accomplish projects deferred in the past, but also to ensure that adequate base funds are available to achieve a desirable level of maintenance.

Waterfowl management and research efforts in FY 1985 will be increased on declining populations of black ducks and five species of geese nesting in Alaska ($869,000). For the black duck, Service activities will focus on methods to restore the populations, such as programs directed at increasing understanding about species decline, evaluating the effectiveness of changes in harvest regulations, and improving survey methods. The efforts for the Alaska geese will provide increased information on the status and trends of populations of the birds, determine the importance of natural and hunting mortality, and identify essential breeding and staging habitats in Alaska.

In FY 1983, the Service conducted a major review of funding needs for law enforcement and transmitted the findings to the Senate on May 17, 1983, in a report entitled "Special Agent Funding and Costs." In our continuing effort to implement the report's recommendation, the FY 1985 budget provides for the transfer of $1,603,000 from the Wildlife Resources activity to the Fishery Resources activity. This will result in more efficient management of agents in these activities and improved balance among the programs funding law enforcement activities. This transfer, in concert with additional proposed funding in fisheries and wildife enforcement and continuation of the FY 1984 level in the Endangered Species activity, will provide a total law enforcement program of $18,950,000.

The Service will effect savings of approximately $1.7 million in the Wildlife Resources activity by such measures as eliminating projects that do not address high priority research needs, eliminating one time maintenance funding at research laboratories and documenting and quantifying water rights within available funds.

The Service's responsibilities under the Marine Mammal Protection Act will be continued in FY 1985 with a total of $2.2 million in the Wildlife Resources and Endangered Species activities. Research actions for the West Indian manatee will be accelerated with a requested increase of $106,000.

Endangered Species - As I mentioned, we are requesting an increase of $3.3 million for this program in FY 1985. The FY 1985 budget proposes an 18 per cent increase over 1984 to accelerate listing activties. As of February 1, 1984, 778 species have been listed under the Endangered Species Act and another 60 species are currently proposed . Degree and immediacy of threat as well as taxonomic uniqueness are the primary criteria used in assessing listing priorities.

Through the development of recovery plans, information and management needs for endangered species are identified and ranked in importance and timing. By the end of FY 1984, plans for 174 of the 300 listed domestic species should be approved. The Service projects that recovery plans for endangered species recovery activities will be increased both on and off Service lands through a budget increase of $535,000 that will affect 56 species. Research activities will be expanded by $106,000 to determine the summer movements and areas of significance for the West Indian manatee. An additional first time funding of $62,000 is proposed to research the biology of three species of mussels. These studies will have relevance for 14 other listed mussel species.

Section 6 of the Endangered Species Act recognizes that the States have an important role in the development and maintenance of substantive programs for the conservation of endangered and threatened species. The purpose of Section 6 is to assist the States in the continued development and implementation of State programs for the conservation of listed species. From the Service's perspective, a major benefit of this State program is the implementation of recovery activities for federally-listed species without an increase in Federal personnel ceilings. Our proposal is to increase grants to States to $4 million in FY 1985, double the FY 1984 appropriation.

Fishery Resources - The Administration and the Congress have, over the last years, undertaken a major redirection of the Fishery Resources program. Its basis has been a re-examination of respective Federal and State roles in the management of the Nation's fishery resources. The general intent is that management of natural resources that can best be accomplished at the State level should be assumed by State government, and that Federal involvement should be directed toward those activities for which there is a clear legislative mandate and need for Federal involvement.

The Service has initiated an intensive effort to redefine and clarify the role of the FWS in the management of the Nation's fishery resources through development of a policy statement with related implementation strategies. Six major program responsibilities have been identified :

- -- restore depleted fishery resources of national significance
- -- mitigate fishery resource impairment due to Federal development initiatives
- -- assist with management of fishery resources on Federal lands
- -- enhance the status of currently or potentially imperilled
- -- maintain a Federal leadership role of scientifically based management of national fishery resources
- -- promote public awareness of national fishery resources

The FY 1985 request for Fishery Resources, showing an increase of approximately $2.7 million over FY 1984, reflects this programmatic realignment. Included is an increase of $675,000 for operation and maintenance at high priority fish hatcheries. An additional $100,000 is included for fish marking and some O&M at hatcheries that produce lake trout for the Great Lakes restoration program. As part of an initiative to more effectively utilize our law enforcement capabilities, $215,000 is requested for better protection of interstate and international anadromous and Great Lakes fish resources. Finally, an increase of $850,000 is requested to fund initial or full operation of newly completed fishery mitigation facilities constructed by the Corps of Engineers as part of the Lower Snake River Compensation Plan. The total LSRCP budget request of $4.6 million will fund all facilities on-line at levels needed to support planned operations in FY 1985.

Savings in the Fishery program will occur in two areas. A net decrease of $1.4 million in hatchery operations and maintenance will result from the transfer of 3 hatcheries and the closure of 7 others as directed by Congress in the FY 1984 Interior Appropriations bill. A decrease of $300,000 is related to termination of low-priority research studies relating to fish control and drug registration.

CONSTRUCTION AND ANADROMOUS FISH

The FY 1985 budget request of $9.1 million for this appropriation will continue construction on national wildlife refuges, the Service's dam safety program, advanced planning efforts, and anadromous fish grants. Although the "Jobs Bill" provided a substantial enhancement to the conditions of facilities on national wildlife refuges projects at four refuges to protect the health and safety of visitors and employees will require $1 million. The dam safety program includes scheduled inspections ($359,000) and repair or technical engineering design work needed to correct identified structural or operational deficiencies of 15 dams on Service facilites ($3.2 million). The advanced planning request ($1 million) will continue a program of advanced planning to support proposals for future construction requests by assuring adequacy of cost estimates and completion of pre-construction design.

The Anadromous Fish Grant request of $3.5 million provides Federal matching grants to States and non-Federal entities for projects for restoring and enhancing anadromous fish populations through interstate cooperation. A report on the results of the five-year research study on striped bass (authorized by Section 7 of the Anadromous Fish Conservation Act) is expected to be published in FY 1985, utilizing FY 1984 carry-over funds. Consequently, neither reauthorization of this section of the Act nor continuation of last year's funding level for this work is requested (-$500,000).

Permanent and Trust Funds

Finally, Mr. Chairman, the total for Permanent and Trust Funds, other than duck stamps that I have already mentioned, we anticipate a net increase of $11.3 million. An increase of $11.8 million estimated receipts is anticipated in payments to States under the Pittman-Robertson program. A decrease of $605,000 is anticipated in Dingell-Johnson Act payments due to savings in administrative costs and an anticipated decrease in excise tax receipts. The decrease is based on a projection using the trend of recent years' actual receipts. Contributed funds for the sea lamprey control program in the Great Lakes will also increase.

Supplemental

The proposed supplemental appropriation would provide $440 thousand for FY 1983 emergency expenditures related to the prevention and suppression of forest fires and the rehabilitation of the National Wildlife Refuge System in the Lower 48 States, and $591 thousand for costs associated with the transfer of operations to State control, or closure of eight fish hatcheries during 1984 and 1985, as recommended in the Conference Report of the 1984 Interior and Related Agencies Appropriations Act.

Mr. Chairman, this concludes my prepared testimony, I would be pleased to answer any questions you may have.

Question: Please discuss in detail the budget request for fiscal year 1985. How do these figures compare to the amounts actually obligated in fiscal year 1983, and the amounts appropriated in fiscal year 1984?

Answer: A detailed description of the Fish and Wildlife Service's appropriation request for FY 1985, and a comparison to FY 1983 obligations and FY 1984 appropriations, are attached.

ATTACHMENT # 1

Comparison by Activities/Subactivities	1983 Enacted to Date		1984 Appropriation		1985 Base		1985 Request		Inc(+)Dec(-) from 1984 Approp.		1985 Inc(+)Dec(-) over 1985 Base	
	FTE-T	Amount	FTE-T	Amount	FTE-T	Amount	FTE-T	Amount	FTE-T	Amount	FTE-T	Amount
Habitat Resources												
Field Operations	491	17,531	488	17,952	490	18,484	498	24,716	10	6,764	8	6,232
NWI	31	3,650	31	3,716	31	3,753	35	6,053	+4	2,337	4	2,300
Research & Development	306	13,239	301	13,810	302	14,145	310	15,523	9	1,713	8	1,378
Coop Units	33	4,760	57	4,774	57	4,929	57	3,655	...	-1,119	...	-1,274
Subtotal	861	39,180	877	40,252	880	41,311	900	49,947	+23	9,695	+20	8,636
Wildlife Resources												
Refuge O&M	1,887	86,893	1,890	90,275	1,923	92,434	1,963	93,066	73	2,791	40	632
LE & Protection	259	9,412	231	11,515	192	10,118	192	10,250	-39	-1,265	...	132
Payment of Reward (Perm)	...	...	...	250	...	250		250	...	...	...	..
Pop. Mgmt.	353	18,287	341	18,714	341	19,074	341	19,337	...	623	...	263
R&D	307	12,229	322	11,930	322	12,268	322	11,822	...	-108	...	-446
YCC	...	2,145	...	...	...	...		...	...	...	...	...
Alaska Subsistance	...	...	...	...	...	1,000		1,000		1,000	...	...
Subtotal	2,806	128,966	2,784	132,684	2,778	135,144	2,818	135,725	+34	3,041	40	581
Fishery Resources												
Hatchery O&M	470	32,557	447	22,916	445	23,395	433	22,799	-14	-117	-12	-596
LSRCF	...	...	12	3,729	12	3,741	12	4,591	...	862	...	850
Refuge O&M	30	1,608	30	2,175	30	2,217	30	2,217	...	42	...	...
LE & Protection	3	227	3	327	42	1,972	42	2,187	39	1,860	...	215
Pop. Mgmt.	69	1,608	69	1,686	69	1,758	69	1,758	...	72	...	...
R&D	252	11,184	242	10,624	268	10,896	268	10,596	26	-28	...	-300
YCC	...	1,155	...	...	...	...	...	...	...	...	...	...
Subtotal	824	48,339	803	41,457	866	43,979	854	44,148	51	2,691	-12	169
Endangered Species												
Listing	52	2,057	52	2,577	52	2,628	57	3,028	+5	451	+5	400
LE & Protection	100	5,766	128	6,133	130	6,263	130	6,263	+2	130	...	...
Consultation	78	2,541	76	2,570	76	2,646	76	2,646	...	76	...	...
Recovery	65	5,129	57	4,577	57	4,663	57	4,982	...	405	...	319
R&D	40	2,966	63	4,090	63	4,155	65	4,323	+2	233	+2	168
Coop with States	...	2,000	...	2,000	...	2,000	...	4,000	...	2,000	...	2,000
Subtotal	335	20,459	376	21,947	378	22,355	385	25,242	9	3,295	+7	2,887
General Administration												
Executive Direction	157	6,897	148	7,067	148	7,361	148	7,361	...	294	...	...
Adm. Services	387	11,135	383	11,571	389	12,002	389	12,002	+6	431	...	...
Related S. Services	...	11,041	...	16,575	...	17,479	...	17,425	...	850	...	-54
Subtotal	544	29,073	511	35,213	537	36,842	537	36,788	+6	1,575		-54
Total Requirements	5,370	266,017	5,3[illegible]	271,553	5,439	279,631	5,494	291,850	+123	20,297	+55	12,219

SUMMARY OF REQUIREMENTS - CONSTRUCTION

FISH AND WILDLIFE SERVICE
Construction and Anadromous Fish
Analysis by Activities

Activity/Subactivity	1983 Appropriation	1984 Appropriation	FTE-T	1985 Budget Estimate	FTE-T	Budget Estimate 1985 Compared with 1984 Appropriation	Page Ref.
1. Construction and rehabilitation							
Appropriation	15,315,000[1]	23,301,000	143	5,627,000	138	-17,674,000	
Unobligated balance brought forward	16,293,971	18,172,545		14,648,000		-3,524,545	
Obligation program	13,436,426	26,825,545		12,780,000		-14,045,545	
Unobligated balance carried forward	18,172,545	14,648,000	143	7,495,000	138	-7,153,000	
2. Anadromous fish							
Appropriation	3,500,000	4,000,000		3,500,000		-500,000	
Unobligated balance brought forward [2]	543,585	863,390		900,000		36,610	
Obligation program	3,180,195	3,963,390		3,900,000		-63,390	
Unobligated balance carried forward	863,390	900,000		500,000		400,000	
Total appropriation	18,815,000	27,301,000		9,127,000		-18,174,000	
Total unobligated balance brought forward	16,837,556	19,035,935		15,548,000		-3,487,935	
Total obligation program	16,616,621	30,788,935		16,680,000		-14,108,935	
Total unobligated balance brought forward	19,035,935	15,548,000	143	7,995,000	138	7,553,000	

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[1] Includes $1,850,000 transferred to BLM to cover fire costs.

[2] Includes $40,531 recovery of prior-year obligations.

Summary of Requirements
(Dollar amounts in thousands)

	FTE/T	Amount
Appropriation enacted to date, 1984:	10	42,297
Transfers, net	...	+2,500
Adjustments to base	+30	-44,797
1985 Base Budget	40	...
Program changes (Changes to base budget, detailed below)	+23	+57,500
Total Requirements (1985 Estimate)	63	57,500

Comparison by Activity/Subactivity

Comparison by activity/ Subactivity	1983 Approp.		1984 Appropriation Enacted to Date		1985 Base		1985 Estimate		FY 1985 Change from the FY 1984 Approp.		FY 1985 Change from the FY 1985 Base	
	FTE/T	Amount	FTE/T	Amount	FTE/T	Amount	FTE/T	Amount	FTE/T	Amount	FTE/T	Amount
Acquisition management	10	1,000	10	1,500	40	...	58	1,000	+48	-500	+18	+1,000
Specifically legislated		17,470		9,000		...		2,850		-6,150		+2,850
Endangered Species Act		9,853		27,400		...		14,550		-12,850		+14,550
Refuge recreation		4,377		350		...		650		+300		+650
Fish and Wildlife Act		2,500		4,047		...		10,950		+6,903		+10,950
State Wetlands Grants		...		...		...	5	7,500	+5	+7,500	+5	+7,500
Federal Wetlands		...		...		...		20,000		+20,000		+20,000
Total, Appropriation	10	35,200	10	42,297	40	...	63	57,500	+53	+15,203	+23	+57,500

Summary of Requirements
(Dollar amounts in thousands)

Appropriation: Migratory Bird Conservation Account

Page No.	Summary of adjustments to base and built-in changes:	Amount
	Appropriation enacted to date, 1984:	
	Receipts (permanent, indefinite authority)	16,376
	Advance appropriation (current authority)	7,000
	1985 base	23,376

Comparison by activity/ Subactivity	1983 Actual		1984 Appropriation Enacted to Date		1985 Base		1985 Estimate		Inc(+) Dec (-) from 1984 Approp.		Inc (+) Dec (-) from 1985 Base
	FTE/T	Amount	FTE/T	Amount	FTE/T	Amount	FTE/T	Amount	FTE/T	Amount	
Printing and sale of hunting stamps		386		420		420		420		...	...
Acquisition of refuges and other areas	114	16,511	157	22,956	157	22,956	157	15,956		-7,000	-7,000
Total requirements	114	16,897	157	23,376	157	23,376	157	16,376		-7,000	-7,000

Activity: National Wildlife Refuge Fund

(Dollar amount in thousands)

	FY 1984 Appropriation Enacted to Date	FY 1985 Estimate	Inc. (+) Dec. (-) from 1984
Budget Authority			
Appropriation Request	5,760	5,760	0
Actual Year Receipt Collections	6,778	6,740	-38
Total	12,538	12,500	-38
Payments to Counties			
Receipts Available for Obligation (Unobligated balance, start of year)	4,540	4,340	-200
Appropriations	5,760	5,760	0
Total	10,300	10,100	-200
Receipts from Sales			
Actual Year Receipts	6,778	6,740	-38
Expenses for Sales	-2,438	-2,438	0
Receipts not available for obligations (unobligated balance, end-of-year)	4,340	4,302	-38

Question: Please discuss the rationale for the increases or decreases in the level of funding for fiscal year 1985.

Answer: A description of the rationale for proposed increases and decreases in the FY 1985 budget is contained in attachment #2.

Question: In areas where programs are increased, indicate whether these budgetary increases are tied to new agency initiatives or an increase in ongoing programs. Specify what the additional funds will provide.

Answer: Increases in four areas, wetlands conservation, resource contaminant monitoring and research, acidified surface waters and endangered species, are tied to major budget initiatives in FY 1985. These are discussed in detail in the prepared testimony that has been submitted to you. (see pages 4-7).

Question: In the programs where reductions have been made, what specific areas of the program will be reduced or eliminated and what will be the effect of these reductions on operation of the program?

Answer: Proposed program reductions for FY 1985 are discussed in attachment #2. Generally, these reductions are less than $1 million per program. The one notable exception is a decrease of $7 million under the Migratory Bird Conservation Account. This reflects our decision not to request an advance from the Wetlands Loan Fund. Instead, the budget proposes the use of $27.5 million from the Land and Water Conservation Fund for the purchase of wetlands. This is one of the new initiatives for FY 1985 discussed in question #1.

Question: If there is no change in funding from last year, have any changes been made in program priorities?

Answer: Changes have not been made in priorities for those programs in which increases or decreases have not been proposed for FY 1985. (Please refer to the FY 1985 budget justification for a description of current program activities.)

ATTACHMENT # 2

U.S. FISH AND WILDLIFE SERVICE

Conserves, protects and enhances fish and wildlife and their habitats, with principal responsibilities and authority for migratory birds, threatened and endangered species, certain marine mammals, international resources, and wildlife on lands under Service control

SUMMARY OF BUREAU APPROPRIATIONS

(Dollar amounts in thousands)

Comparison of 1985 Estimate with 1984 Estimate.

	1984 Estimate		1985 Estimate		Change from 1984	
	FTE/T	Amount	FTE/T	Amount	FTE/T	Amount
Appropriations:						
Resource Management	5,371	271,303	5,494	291,600	+123	+20,297
Construction and Anadromous Fish	143	27,301	138	9,127	-5	-18,174
Land Acquisition and State Assistance	10	42,297	63	57,500	+53	+15,203
Migratory Bird Conservation Account - Advance	...	7,000	...	...	...	-7,000
National Wildlife Refuge Fund - Payments in Lieu of Taxes	...	5,760	...	5,760	...	...
Subtotal, Appropriations	5,524	353,661	5,695	363,987	+171	+10,326
Proposed 1984 Supplementals:						
Fishery Resources (8 fish hatchery transfer/ closures)	...	591	...	...	...	-591
Wildlife Resources (fire prevention and suppression)	...	440	...	...	...	-440
Subtotal, Supplementals	...	1,031	...	...	...	-1,031
Transfers:						
Bureau of Land Management	...	4,350	...	...	...	-4,350
Permanents and Trusts:						
Resource Management	...	250	...	250	...	...
Federal Aid in Fish Restoration	26	33,705	26	33,100	...	-605
Federal Aid in Wildlife Restoration	64	93,707	64	105,500	...	+11,793
National Wildlife Refuge Fund	26	6,778	26	6,740	...	-38
Migratory Bird Conservation Account	157	16,376	157	16,376	...	...
Proceeds from Sales	...	100	...	100	...	...
Contributed Funds	96	3,572	96	3,738	...	+166
Advances and Reimbursements	628	...	608	...	-20	...
Subtotal, Permanent and Trusts	997	154,488	977	165,804	-20	+11,316
TOTAL, U.S. FISH AND WILDLIFE SERVICE	6,521	513,530	6,672	529,791	+151	+16,261

Comparison of 1985 Estimate with 1985 Base Budget:

	1985 Base Budget		1985 Estimate		Change from Base	
	FTE/T	Amount	FTE/T	Amount	FTE/T	Amount
Appropriations:						
Resource Management	5,439	279,381	5,494	291,600	+55	+12,219
Construction and Anadromous Fish	143	4,000	138	9,127	-5	+5,127
Land Acquisition and State Assistance	40	...	63	57,500	+23	+57,500
Migratory Bird Conservation Account - Advance.	...	7,000	...	...	...	-7,000
National Wildlife Refuge Fund - Payments in Lieu of Taxes	...	5,760	...	5,760	...	...
Subtotal, Appropriations	5,622	296,141	5,695	363,987	+73	+67,846
Permanents and Trusts	369	154,488	369	165,804	...	+11,316
Advances and Reimbursements	628	...	608	...	-20	...
Subtotal, Permanents and Advances	997	154,488	977	165,804	-20	+11,316
TOTAL, U.S. FISH AND WILDLIFE SERVICE	6,619	450,629	6,672	529,791	+53	+79,162

TABULAR INFORMATION AND HIGHLIGHTS OF BUDGET CHANGES

(By Appropriation)

APPROPRIATION: RESOURCE MANAGEMENT

Summary of Requirements

(Dollar amounts in thousands)

	FTE/T	Amount	FTE/T	Amount
Appropriation currently available, 1984	...	...	5,371	271,303
Adjustments to base:				
Savings from management initiatives	-38	-520		
Total adjustment for 1984 pay increase	...	6,330		
Transfers, net	...	1,000		
Other increases, net	106	1,268		
Total, Adjustments to base			+68	+8,078
1985 Base Budget			5,439	279,381
Program changes (Changes to base budget, detailed below).			+55	+12,219
Total Requirements (1985 Estimate)			5,494	291,600

Comparison by Activity/Subactivity

	1984 Appropriation		1985 Base Budget		1985 Estimate		Change from Base	
	FTE/T	Amount	FTE/T	Amount	FTE/T	Amount	FTE/T	Amount
Habitat Resources:								
Field Operations	488	17,952	490	18,484	498	24,716	+8	+6,232
National Wetland Inventory	31	3,716	31	3,753	35	6,053	+4	+2,300
Research and Development	301	13,810	302	14,145	310	15,523	+8	+1,378
Cooperative Units	57	4,774	57	4,929	57	3,655	...	-1,274
Subtotal, Habitat Resources	877	40,252	880	41,311	900	49,947	+20	+8,636
Wildlife Resources:								
Refuge Oper. & Maintenance	1,890	90,275	1,923	92,434	1,963	93,066	+40	+632
Law Enforcement & Protection	231	11,515	192	10,118	192	10,250	...	+132
Payment of Rewards (Permanent)	...	(250)	...	(250)	...	(250)	...	...
Population Management	341	18,714	341	19,074	341	19,337	...	+263
Research and Development	322	11,930	322	12,268	322	11,822	...	-446
Alaska Subsistence	...	...	...	1,000	...	1,000	...	...
Subtotal, Wildlife Resources	2,784	132,434	2,778	134,894	2,818	135,475	+40	+581
Fishery Resources:								
Hatchery Oper. & Maintenance	447	22,916	445	23,395	433	22,799	-12	-596
Lower Snake River	12	3,729	12	3,741	12	4,591	...	+850
Refuge Oper. & Maintenance	30	2,175	30	2,217	30	2,217	...	...
Law Enforcement & Protection	3	327	42	1,972	42	2,187	...	+215
Population Management	69	1,686	69	1,758	69	1,758	...	...
Research and Development	242	10,624	268	10,896	268	10,596	...	-300
Subtotal, Fishery Resources	803	41,457	866	43,979	854	44,148	-12	+169
Endangered Species:								
Listing	52	2,577	52	2,628	57	3,028	+5	+400
Law Enforcement & Protection	128	6,133	130	6,263	130	6,263	...	...
Consultation	76	2,570	76	2,646	76	2,646	...	...
Recovery	57	4,577	57	4,663	57	4,982	...	+319
Research and Development	63	4,090	63	4,155	65	4,323	+2	+168
Cooperation with States	...	2,000	...	2,000	...	4,000	...	+2,000
Subtotal, Endangered Species	376	21,947	378	22,355	385	25,242	+7	+2,887
General Administration:								
Executive Direction	148	7,067	148	7,361	148	7,361	...	...
Administrative Services	383	11,571	389	12,002	389	12,002	...	...
Related Support Services	...	16,575	...	17,479	...	17,425	...	-54
Subtotal, Gen. Administration	531	35,213	537	36,842	537	36,788	...	-54
TOTAL APPROPRIATION	5,371	271,303	5,439	279,381	5,494	291,600	+55	+12,219

Highlights of Budget Changes

	Change from Base	
	FTE/T	Amount
Field Operations, Habitat Resources:	+8	+6,232

Increase frequency and location of contaminant monitoring activities (+1,232). Demonstrate effectiveness of restoring sport fishery through the liming of surface waters (+5,000).

APPROPRIATION: RESOURCE MANAGEMENT (Cont'd)

Highlights of Budget Changes

	Change from Base	
	FTE/T	Amount
National Wetlands Inventory, Habitat Resources: Purchase and install three computers for mapping program and data analysis (+1,222). Continue development of automated mapping system technologies (+278). Conduct a study of wetland losses and provide recommendations for alternatives for conserving wetlands (+800).	+4	+2,300
Research and Development, Habitat Resources: Increase research on impacts of contaminants on fish and wildlife (+378). Evaluate mitigation techniques for acidified lakes to restore fishery resources (+1,000).	+8	+1,378
Cooperative Units, Habitat Resources: Restructure existing units to consist of 24 combined Fish and Wildlife Units and five Fishery Units (-1,274).	...	-1,274
Refuge Operations and Maintenance, Wildlife Resources: Continue the Accelerated Refuge Maintenance and Management (ARMM) program initiated in FY 1984 (+1,328). Limit qualification of federal reserved water rights on refuges (-146). Bear Lake study continued with base funding (-250). Complete EIS on oil and gas leasing on refuges (-300).	+40	+632
Law Enforcement and Protection, Wildlife Resources: Continue enforcement efforts toward major illegal commercial activity and support field operation programs (+132).	...	+132
Population Management, Wildlife Resources: Survey black duck wintering and breeding populations and improve public awareness to restore declining populations (+243). Develop and implement cooperative management programs for Arctic geese (+170). Participate in International Convention on Nature Protection at the FY 1982 level (-150).	...	+263
Research and Development, Wildlife Resources: Realign ADC research responsibilities with Forest Service as directed by Congress (-297). Develop survey techniques for black ducks in the Mississippi Flyway (+250). Conduct research on Arctic nesting geese to evaluate mortality, ecological productivity, and habitat requirements (+206). Discontinue research on livestock guard dog studies to avoid duplicative work by USDA (-45). Effect savings for one-time laboratory maintenance costs (-560).	...	-446
Fishery Resources: Increase fish production operations to restore lake trout stocks in the Great Lakes (+100). Save operational costs from Congressionally mandated transfer/closure of 8 fish hatcheries and 2 other hatcheries transferred to state operations (-1,371). Improve annual maintenance of national fish hatcheries (+195). Enhance fish production operations at high priority fish hatcheries (+480). Fund operation of fishery mitigation facilities constructed by the U.S. Army Corps of Engineers under the Lower Snake River Compensation Plan (+850). Provide support to law enforcement field operations (+215). Discontinue low priority biological fish control and drug registration at the LaCrosse National Research Laboratory (-300).	-12	+169
Endangered Species: Accelerate the threatened and endangered species listing process (+400). Implement high priority recovery activities for 49 species off-Service lands (+422). Implement recovery actions for 7 species on Service lands (+113). Reduce peregrine falcon recovery funding since substantial non-federal funding is available (-216). Implement high priority research on 4 endangered species to support recovery efforts (+168). Increase grant program to States for endangered species (+2,000).	+7	+2,887
General Administration, Administrative Services: Consolidation of all bureaus under a Department-wide personnel and payroll system (PAY/PERS) in June 1984 will result in savings (-54).	...	-54

APPROPRIATION: CONSTRUCTION AND ANADROMOUS FISH

Summary of Requirements

(Dollar amounts in thousands)

	FTE/T	Amount
Appropriation currentl, available, 1984		
Total adjustment for 1984 pay increase	143	27,301
Transfers from other accounts..............................	...	+103
Adjustments to base.	...	+1,850
1985 Base Budget...	...	-25,254
Program changes (Changes to base budget, detailed below).	143	4,000
Total Requirements (1985 Estimate)	-5	+5,127
	138	9,127

Comparison by Activity/Subactivity

	1984 Appropriation		1985 Base Budget		1985 Estimate		Change from Base	
	FTE/T	Amount	FTE/T	Amount	FTE/T	Amount	FTE/T	Amount
Construction and Rehabilitation								
Refuges	143	13,340	143	...	138	1,023	-5	+1,023
Hatcheries	...	2,547	...	...	...	...	...	...
Fishery research facilities..	...	1,510	...	...	...	...	...	...
Dam safety	...	1,160	...	...	...	3,604	...	+3,604
Wildlife research facilities.	...	2,841	...	...	...	...	...	...
Capital Dev. & Adv. Planning.	...	1,903	...	...	...	1,000	...	+1,000
Anadromous Fish Grants.........................	...	4,000	...	4,000	...	3,500	...	-500
TOTAL APPROPRIATION.......	143	27,301	143	4,000	138	9,127	-5	+5,127

Highlights of Budget Changes

	Change from Base	
	FTE/T	Amount
Construction and Rehabilitation		
Refuges		
Correct health and safety problems at 4 refuges (+1,023).	-5	+1,023
Dam Safety	...	+3,604
Conduct intermediate inspections to identify dams in need of repair (+369). Initiate remedial repairs on 16 dams with identified structural or other problems (+3,235).		
Capital Development and Advance Planning	...	+1,000
Continue the Advance Construction Planning process initiated in FY 1984 to provide engineering information on proposed future construction projects (+1,000).		
Anadromous Fish Grants	...	-500
A report on the results of the five-year research study on striped bass is expected to be published in FY 1985, utilizing FY 1984 carry-over funds. As a result of this study's completion, neither reauthorization of this section of the Anadromous Fish Conservation Act or continuation of last year's funding level for this work is requested (-500).		

APPROPRIATION: LAND ACQUISITION AND STATE ASSISTANCE

Summary of Requirements

(Dollar amounts in thousands)

	FTE/T	Amount
Appropriation currently available, 1984		
Transfer, net	10	42,297
Adjustments to Base:....................................	...	+2,500
1985 Base Budget..	+30	-44,797
Program changes (Changes to base budget, detailed below).	40	...
Total Requirements (1985 Estimate)	+23	+57,500
	63	57,500

APPROPRIATION: LAND ACQUISITION AND STATE ASSISTANCE (Con'd)

Comparison by Activity/Subactivity

	1984 Appropriation		1985 Base Budget		1985 Estimate		Change from Base	
	FTE/T	Amount	FTE/T	Amount	FTE/T	Amount	FTE/T	Amount
Acquisition Management	10	1,500	40	...	58	1,000	+18	+1,000
Specifically legislated	...	9,000	...	...	...	2,850	...	+2,850
Endangered Species Act	...	27,400	...	...	...	14,550	...	+14,550
Refuge Recreation	...	350	...	...	...	650	...	+650
FWS Act of 1956	...	4,047	...	...	...	10,950	...	+10,950
Federal Wetlands (pending legislation)	...	...	...	...	...	20,000	...	+20,000
State Wetland Grants	...	...	...	...	5	7,500	+5	+7,500
TOTAL APPROPRIATION	10	42,297	40	...	63	57,500	+23	+57,500

Highlights of Budget Changes

	Change from Base	
	FTE/T	Amount
Acquire 45,540 acres of fish and wildlife habitat (+29,000) for 14 refuges. Purchase 21,035 acres of wetlands involving 4 projects (+20,000). Provide wetland conservation grants to States (+7,500). Provide overall acquisition management (+1,000).	+23	+57,500

APPROPRIATION: MIGRATORY BIRD CONSERVATION ACCOUNT

Summary of Requirements

(Dollar amounts in thousands)

	FTE/T	Amount
Appropriation currently available, 1984/1985 Base Budget.	...	7,000
Program changes (Changes to base budget, detailed below).	...	-7,000
Total Requirements (1985 Estimate)	...	...

Comparison by Activity/Subactivity

	1984 Appropriation		1985 Base Budget		1985 Estimate		Change from Base	
	FTE/T	Amount	FTE/T	Amount	FTE/T	Amount	FTE/T	Amount
Advance Appropriation	...	7,000	...	7,000	...	...	...	-7,000
TOTAL APPROPRIATION	...	7,000	...	7,000	...	...	...	-7,000

Highlights of Budget Changes

	Change from Base	
	FTE/T	Amount
The loan advance is not being requested (-7,000). Instead, the budget proposes the use of $27.5 million from the Land and Water Conservation Fund for the purchase of wetlands.	...	-7,000

APPROPRIATION: NATIONAL WILDLIFE REFUGE FUND

Summary of Requirements

(Dollar amounts in thousands)

	FTE/T	Amount
Appropriation currently available, 1984/1985 Base Budget.	...	5,760
Program changes (Changes to base budget, detailed below).	...	...
Total Requirements (1985 Estimate)	...	5,760

	1984 Appropriation		1985 Base Budget		1985 Estimate		Change from Base	
Payments to Counties	...	5,760	...	5,760	...	5,760	...	...
TOTAL APPROPRIATION	...	5,760	...	5,760	...	5,760	...	...

Highlights of Budget Changes

	Change from Base	
	FTE/T	Amount
Payments in lieu of taxes appropriation is requested at the same level as appropriated in FY 1984.	...	...

Question: What personnel increases or decreases are being proposed?

Answer: The Fish and Wildlife Service proposes a total personnel increase of 151 FTE in FY 1985. The increases are in response to Congressional direction provided along with the FY 1984 Appropriations Bill and to accomplish work associated with FY 1985 proposed funding increases. Programs with proposed funding decreases are proposing commensurate FTE decreases. The following summarizes these FTE increases and decreases:

Habitat Resources ($+8,636,000/+23 FTEs) - Increases are associated with research, identification and monitoring contaminant problems in fish and wildlife; research and cooperation with States on mitigation of acidified surface waters; improving technical capability for the National Wetland Inventory.

Wildlife Resources - Refuge Operations and Maintenance ($+1,328,000/+73 FTEs) - Provides further expansion of the Accelerated Refuge Maintenance and Management (ARMM) program. The ARMM program received an increase of $14.6 million in FY 1984. The $15.9 million ($14.6 from FY 1984 and $1.3 in FY 1985) and 73 FTEs will be directed toward reducing the maintenance backlog on refuges.

Fishery Resources - Hatchery Operations and Maintenance ($-1,371,000/-14 FTEs) - Reductions represent operational cost savings from Congressional mandated closure/transfer of 8 Fish Hatcheries and 2 other hatcheries transferred to States. Research and Development will receive FTE increases (+26 FTEs) in response to Congressional direction given in the FY 1984 budget and commensurate with Congressionally restored funding.

Endangered Species ($+887,000/+9 FTEs) - Funding and personnel increases are proposed to accelerate the listing process, implement recovery actions, and conduct new research on the West Indian Manatee and three species of mussels. Two FTEs will be added for grizzly bear law enforcement activities.

General Administration ($-54,000/+6 FTEs) - FTEs will be added to Administration to more accurately reflect program personnel needs. The funding decrease effects savings from completion of the conversion process to the automated personnel and payroll system.

Land Acquisition ($+57,500,000/+53 FTEs) - Acquistion funding has grown from $27.2 million in FY 1982 to $57.5 million in FY 1985. FTEs are being added to reduce the acquisition backlog and initiate the FY 1985 proposed acquisition activities.

Construction ($+5,627,000/-5 FTEs) - Construction funding has decreased from $10.6 million in FY 1982 to $5.6 million in FY 1985. Personnel decreases are commensurate with proposed funding reductions.

Personnel associated with reimbursable funding will be reduced by -20 FTEs. Reimbursable funding has remained relatively stable since FY 1982. As a result of increased salary and operating costs, the total number of personnel required is reduced.

Question: How will this affect the agency's ability--including any additional time it may take--to carry out its program responsibilities?

Answer: The increase of 151 FTEs will facilitate the Service's timely accomplishment of program responsibilities. Approximately one-third of the increase will provide sufficient land acquisition staff to accelerate the negotiation and appraisal process thus allowing a more appropriate acquisition completion rate. Staff increases in refuge maintenance activities will limit further deterioration of refuge facilities while enhancing wildlife habitat. Additional staff will allow continuation and expansion of contaminant assessment activities in FY 1985.

Question: Please discuss any recissions, deferrals or supplementals requested for 1984?

Answer: The Service does not have any pending recission or deferral items for FY 1984. There is a FY 1984 supplemental request to cover FY 1983 emergency fire expenditure for the prevention, suppression, and rehabilitation of costs occuring on or threatening units of the National Wildlife Refuge System in the Lower 48 States ($440,000), and a $591,000 request to cover unfunded costs in FY 1984 and Fy 1985 accociated with the closure or the transfer to State operation of 8 fish hatcheries.

The proposed supplemental request of $440,000 for emergency fire costs would cover the following activities:

A. Presupression Activities, $171,000
The Service expended $171,000 for payments to cooperators and contractors for presuppression fire work. Seasonal fire crew were hired and trained at several refuges such as Merritt Island Refuge in Florida and Wichita Mountains Refuge in Oklahoma, which have historically had fire problems.

B. Suppression Activities, $258,000
The Service expended $258,000 to fight 133 fires that burned approximately 23,000 acres. The largest fires occurred on five refuges:

Seney, Michigan
Malheur, Oregon
Columbia, Washington
Bosque del Apache, New Mexico
Sassaw, Georgia

C. Rehabilitation Activities, $10,500
The Service expended $10,000 to complete one rehabilitation project in FY 1983 at Malheur Refuge in Oregon

The proposed $591,000 supplemental request would cover unfunded costs associated with the transfer or closure of the following eight hatcheries:

Frankfort, Kentucky
Berkshire, Massachusetts
Neosho, Missouri
Senecaville, Ohio
Teshomingo, Oklahoma
Inks Dam, Texas
Uvalde, Texas
Cheraw, South Carolina

These actions will result in additional costs that would not occur under normal circumstances. Some of these costs may carry over to FY 1985 depending on final disposition of the hatchery facilities.

Question: Please indicate if any legislative initiatives are necessary, or are being considered, to implement any part of the agency's fiscal 1985 budget request. If so, please describe these proposals and specify the budgetary impact of each provisions.

Answer: Congress is currently considering the Emergency Wetlands Act (H.R. 3802 and S. 1329), which would promote the conservation of the nation's wetlands through intensive Federal/State cooperative efforts for improved management of wetlands. In FY 1985, the Administration is requesting $20 million from the Land and Water Conservation Fund for Federal acquisition of wetlands. Use of this funding source for wetlands acquisition is authorized in both pending bills. S. 1329 would transfer these funds to the Migratory Bird Conservation Fund for the acquisition of habitat to conserve migratory birds. In this regard, however, we would prefer the provisions of H.R. 3082, which would provide for a slightly broader approach to this acquisition program. As reported from the House Merchant Marine and Fisheries Committee, H.R. 3082 would eliminate the prohibition on use of the Land and Water Conservation Fund for acquisition of areas authorized by the Migratory Bird Conservation Act and authorize use of the Fund for acquisition of wildlife habitat identified in a wetlands priority conservation plan. This priority plan, to be developed by the Secretary after consultation with the States, would weigh the loss of specific wetland types as well a wide range of their natural resource benefits. We support this approach and recommend that this authority for acquistion of wetlands by the Fish and Wildlife Service include an authorization of appropriations of $20 million in fiscal year 1985 and such sums as may be necessary in subsequent fiscal years.

In addition, we are requesting $7.5 million in FY 1985 from the LWCF to initiate a state grants program for wetlands conservation. S. 1329 and H.R. 3082 both contain this concept. We recommend, however, that the authorization for this program be set at $7.5 million in FY 1985 and such sums as may be necessary in subsequent fiscal years.

In conjunction with our FY 1985 budget request, we support enactment of these concepts contained in the pending legislation. Should comprehensive wetlands conservation legislation not be enacted, however, we have submitted proposed appropration language that could authorize these actions for the conservation of wetlands. (attachment #3)

We have also proposed acquiring 33,160 acres of waterfowl habitat using receipts from the sale of Migratory Bird Conservation Stamps. This proposal is based on forgiveness of the advances appropriated under the Wetlands Loan Act, which expires on September 30, 1984. Should the advances not be forgiven, 75% of all receipts would be used to repay the debt, as required by law. This would leave an estimated $4.1 million available for MBCA acquisition in FY 1985.

Finally, the National Park Service has proposed language for the FY 1985 appropriations bill to make funds collected from recreation use fees, which are currently deposited in the Land and Water Conservation Fund, available for minor facilities improvement. If enacted, this language would permit the FWS to use funds collected on our lands for facilitating improvements on refuges currently offering specialized outdoor recreation sites and facilities to the public.

ATTACHMENT # 3

UNITED STATES FISH AND WILDLIFE SERVICE

[LAND ACQUISITION]

[For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C 4601–4–11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, $42,297,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.]

Land Acquisition and State Assistance

For the acquisition of lands, waters, or interests in lands or waters, including administrative expenses, $57,500,000, to be derived from the Land and Water Conservation Fund, to remain available until expended: Provided, That $30,000,000 shall be for expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-4 to 11), in accordance with statutory authority applicable to the United States Fish and Wildlife Service: Provided further, That notwithstanding the provision of 16 U.S.C. 4601-9(a)(1), with respect to migratory waterfowl areas, $20,000,000 shall be available for Federal acquisition of lands, waters or interests therein for the conservation of wetlands, and $7,500,000 shall be available for grants to States for wetland conservation, of which not to exceed 4 per centum shall be available to the United States Fish and Wildlife Service to administer such programs.

(Public Law 96-146, making appropriations for the Department of the Interior and Related Agencies, 1984).

Question: Specify whether and where any of the actions proposed in the budget reflect recommendations of the Grace Commission.

Answer: The Fish and Wildlife Service has included a reduction of $499,000 in its budget request to reflect savings that will be achieved through reductions in the numbers of positions in the GS-11-15 grade levels. This management reduction is in accordance with recommendations of the Grace Commission to control the ratio of higher graded employees to those in lower grades. The grade reduction and budget savings will be achieved through attrition, reassignment and restructuring of duties.

Question: Please identify the cooperative research units, both the Fish and Wildlife Units and the Fishery Units, noting their respective research projects and funding in FY 84 and proposed funding for FY 85.

Answer: This information is provided in attachment #4.

Question: Which Units are to be combined and what is the anticipated effect of such consolidation?

Answer: We propose to combine Units in every state where both a separate fishery unit and a separate wildlife unit now exist. This action will effect the States of Maine, Massachusetts, New York, Virginia, Georgia, Alabama, Ohio, Lousiiana, Missouri, Iowa, Wisconsin, South Dakota, Oklahoma, Colorado, Montana, Utah, Arizona, Idaho, Oregon, and Alaska. We expect these consolidations to result in a reduction in time and expense related to administrative activities in the Units and an increase in understanding and ease of approach to research into ecosystem level problems.

Question: Is the request for reduced funding based solely on this consolidation of the cooperative Units? If not, where else is funding being reduced?

Answer: The request for reduced funding for FY 85 is based on our overall effort to reduce the size of government. Our proposal for combining Units is our plan to maintain maximum research and training capability through the Program while reducing the total dollar and manpower size of the Program.

The proposed dollar reduction from the program base in FY 85 not only reduces available salary funds but also provides reduced direct funding of research projects. By maintaining viable expertise in the Units we expect other cooperators and grantors to increase research dollars to offset this portion of Program funds reduction.

Attachment #4

FY 84 FWS Funding Summary for Cooperative Research Units

Combined Units	
FL	$107,800
MS	106,900
PA	95,900
WY	111,700

	Fishery Units	Wildlife Units
AK	$116,000	$120,400
AL	54,900	53,600
AZ	96,200	103,900
CA	97,500	No unit
CO	46,600	45,100
GA	84,700	49,600
HI	56,800	No unit
IA	50,700	94,900
ID	93,900	102,100
LA	96,000	45,300
MA	87,500	53,600
ME	88,800	45,800
MO	91,900	65,400
MT	92,200	91,800
NC	92,600	No unit
NY	47,300	90,900
OH	86,500	92,000
OK	51,700	4,000
OR	93,000	93,100
SD	4,000	54,300
TN	51,300	No unit
UT	90,000	99,100
VA	43,900	43,900
WA	50,600	No Unit
WI	53,000	52,800

Program Administration and Special Projects	1,132,500
TOTAL	$4,774,000

Attachment #4

FY 85 FWS Proposed Funding Summary for Cooperative Research Units

Combined Units		
	FL	$120,000
	MS	120,000
	PA	120,000
	WY	120,000
	AK	120,000
	AL	120,000
	AZ	120,000
	CO	120,000
	GA	120,000
	IA	120,000
	ID	120,000
	LA	120,000
	MA	120,000
	ME	120,000
	MO	120,000
	MT	120,000
	NY	120,000
	OH	120,000
	OK	120,000
	OR	120,000
	SD	120,000
	UT	120,000
	VA	120,000
	WI	120,000
Fishery Units		
	CA	70,000
	HI	70,000
	NC	70,000
	TN	70,000
	WA	70,000
Program Administration and Special Projects		425,000
	TOTAL	$3,655,000

Attachment #4

Research Projects of Cooperative Units by Category

	Number of Research Projects - 1984
Animal Damage Control	12
Biological Services	87
Endangered Species	60
Environmental Contaminant Evaluation	50
Fisheries Resources	220
Interpretation & Recreation	3
Ecological Services	46
Mammals & Non-Migratory Birds	122
Migratory Birds	100
TOTAL	700

Question: Please provide a list of the national fish hatcheries and their respective funding levels in FY 1984 and proposed funding in FY 1985.

Answer: This information is contained in attachment #5.

Fish Hatcheries Funded by the Fish and Wildlife Service Attachment #5

State/Fish Hatchery	O & M Funding - Resource Management	
	FY 1984 ($000)	FY 1985 ($000)
Alabama		
Carbon Hill	$119	$140
Arizona		
Willow Beach	373	439
Arkansas		
Greers Ferry	270	267
Mammoth Spring	155	180
Norfork	786	521
California		
Coleman	590	582
Tehama Colusa Spawning Channel	289	282
Colorado		
Hotchkis	225	225
Leadville	206	226
Florida		
Welaka	277	253
Georgia		
Chattahoochee Forest	225	289
Millen	157	194
Warm Springs	120	142
Idaho		
Dworshak 1/	120	130
Hagerman 2/	468	468
Kooskia	167	156
Kentucky		
Frankfort	117	0 3/
Wolf Creek	200	202
Louisiana		
Natchitoches	245	219
Maine		
Craig Brook	226	230
Green Lake	397	414
Massachusetts		
Berkshire	84	0 3/
North Attleboro	202	208
Sunderland Salmon Facility	102	105

State/Fish Hatchery	O & M Funding - Resource Management FY 1984 ($000)	FY 1985 ($000)
Michigan		
Jordan River	394	434
Pendills Creek/Hiawatha Forest	367	423
Mississippi		
Meridian	152	200
Pvt. John Allen	147	207
Missouri		
Neosho	127	0 3/
Montana		
Bozeman Tech. Ctr.	197	215
Creston	175	230
Ennis	185	219
Nebraska		
Crawford	84	0 4/
Nevada		
Lahontan	383	387
New Hampshire		
Nashua	224	233
New Mexico		
Dexter	282	336
North Carolina		
Edenton	158	156
McKinney Lake	120	225
Pisgah Forest	237	0 5/
North Dakota		
Garrison Dam	188	195
Valley City/Baldhill Dam	211	208
Ohio		
Senecaville	114	0 3/
Oklahoma		
Tishomingo	198	0 3/
Oregon		
Eagle Creek 6/	12	1
Warm Springs	297	295

State/Fish Hatchery	O & M Funding - Resource Management	
	FY 1984 ($000)	FY 1985 ($000)
Pennsylvania		
Allegheny	415	430
Lamar Tech. Ctr.	144	165
Lamar	166	157
South Carolina		
Cheraw	76	0 7/
Orangeburg 8/	350	452
Walhalla	186	193
South Dakota		
Gavins Point	258	271
Tennessee		
Dale Hollow	273	267
Erwin	192	201
Texas		
Inks Dam	172	0 3/
San Marcos Tech. Cts.	289	354
Uvalde	181	0 3/
Utah		
Jones Hole	400	400
Vermont		
Pittsford	159	168
White River 9/	415	425
Virginia		
Harrison Lake	157	156
Washington		
Abernathy Tech. Ctr. 6/	132	132
Carson 6/	4	1
Entiat	160	160
Levenworth	339	350
Little White Salmon/Willard 6/	15	1
Makah	200	200
Quilcene	206	204
Spring Creek 6/	4	1
Winthrop	151	147
Yakima fish screens	102	109
West Virginia		
Bowden	239	249
White Sulphur Springs	216	215
Wisconsin		
Genoa	156	159
Iron River	294	398
Wyoming		
Jackson	243	196
Saratoga	123	153
Beulah Fish. Tech. Ctr.	185	195

1/ Funds from Lower Snake River Compensation Plan; hatchery principally funded under reimbursement from Corps of Engineers

2/ Lower Snake River Compensation Plan

3/ Hatchery funded in FY 1984 only per Conference Report

4/ To be transferred to State in July 1984

5/ Transferred to State in September 1983

6/ O&M funding provided under reimbursement from NMFS (Columbia River program)

7/ Transferred to State in September 1983

8/ Includes Bears Bluff facility

9/ Includes Litchfield salmon facility

List excludes 4 hatcheries operated by FWS under reimbursement from BIA (Alchesay and Williams Creek, AZ; Mescalero, NM; Quinault, WA).

COMMITTEE QUESTIONS
Youth Conservation Corps

Question: Please explain the Department's rationale for providing no funds for the Youth Conservation Corps.

Answer: No funds are requested for the Youth Conservation Corps because Youth Conservation Corps enrollees cannot be substituted for maintenance professionals at Service facilities. The enrollees are only qualified to complete unskilled maintenance, rehabilitation and construction work which is often not a high Service priority.

Question: How were the funds for the State Wetlands Grant allocated by state for FY 83, FY 84 and proposed FY 85?

Answer: This is a new initiative in FY 1985; State wetlands grants were not requested in previous fiscal years. We intend to implement this program in a manner consistent with the State assistance program contained in S. 1329, the Emergency Wetlands Resources Act, as reported from the Environment and Public Works Committee. In other words, grants would be available to pay 75 percent of wetlands conservation projects, including acquisition, preservation and enhancement. Half of the money would be apportioned based on what a State expended for wetlands conservation in the most recent year of record, compared to other States. The other half would be disbursed by the Secretary for priority state projects. Not more than 4 percent would be used for administration of the program.

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Question: Please explain the programs for Federal Aid in Fish Restoration and Federal Aid in Wildlife Restoration and provide a list of funding by state and project.

Answer: The Federal Aid in Fish and Federal Aid in Wildlife Restoration programs provide grants to State fish and wildlife agencies. These programs are authorized by the:

> Federal Aid in Wildlife Restoration Act of 1937, as amended — commonly referred to as the Pittman-Robertson or P-R Act.
>
> Federal Aid in Fish Restoration Act of 1950, as amended — commonly referred to as the Dingell-Johnson or D-J Act.

The purposes of these Acts are to assist the States in the management of fish and wildlife resources. An amendment to the P-R Act in 1970 expanded the purpose of that Act to include hunter safety training. All State fish and wildlife agencies participate in the programs. Puerto Rico, Guam, American Samoa, the Virgin Islands and the Northern Mariana Islands also participate, except that Samoa is eligible for D-J only.

Eligible activities are very broad and cover nearly all aspects of State fish and wildlife work. These activities include research and surveys, land acquisition, habitat development, development of areas and facilities for public use and hunter training, including construction and operation of public target ranges.

Funds to support these grant programs come from excise taxes on firearms, ammunition, handguns, bows and arrows for the P-R program. Excise taxes on fishing rods, reels, creels, artificial baits, lures and flies are used for the D-J program. Receipts from these taxes are appropriated to the Service in the year following collection under permanent-indefinite appropriation authority. The following were excise tax receipts during fiscal year 1983 and appropriated for fiscal year 1984:

Excise taxes on:

Federal Aid in Wildlife Restoration	
Sporting arms and ammunition	62,799,518
Pistols and revolvers	24,104,308
Bows and arrows	6,802,876
Total	93,706,702
Federal Aid in Fish Restoration	
Fishing rods, reels, creels and artificial baits, lures and flies	33,705,466

The Acts allow for administrative deductions of up to 8 percent of the excise tax receipts. The remainder is distributed to the States in accordance with formulas in the Acts. For the Federal Aid in Wildlife Restoration program, there are two formulas. The amount distributed for wildlife management projects is based on the relative size of each State and the number of paid hunting license holders. The distribution for hunter education projects is based on the relative population of each State. For the Federal Aid in Fish Restoration program, the amount distributed to each State is based on the relative area of the State, including coastal and Great Lakes waters, and the number of paid fishing license holders. Attached is a summary of the sources of funds and apportionment formulas for the programs and the distribution of funds for fiscal year 1983.

Amounts distributed are available to the States for 2 years. Unused funds revert to the Service. P-R reversions are used for Migratory Bird Program work and D-J funds are used for the sport fishery research programs of the Service.

As stated above, the States have wide latitude in the types of work that can be funded. Each State develops programs or projects which best meet their own needs. To use the funds, States have the option of either submitting individual projects or a conservation plan covering all or part of their fish and wildlife program.

If the projects or plans meet standards, the work is carried out and the States are reimbursed for up to 75 percent of the costs. Puerto Rico and the Territories are not required to match Federal funds and are reimbursed for 100 percent of the costs. The Service monitors work to assure it is conducted as planned and approved. Attached is a list of projects conducted by the States in fiscal year 1982.

Attached is the 1981 Federal Aid Annual Report.* Pages 16-80 contain a State-by-State list of Federal Aid projects undertaken during fiscal year 1981. A similar table for fiscal year 1982 is currently being prepared and will be furnished to you upon completion. During 1984, we will be compiling a similar list for fiscal year 1983 projects and will also provide this information to you when it is available.

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*Retained in committee files.

SOURCE OF FUNDS AND APPORTIONMENT FORMULAS

FEDERAL AID IN FISH RESTORATION (DINGELL-JOHNSON)

Source of funds: 10% excise tax on fishing rods, reels, creels, and artificial lures, baits, and flies

Administrative deductions: Up to 8% of total collections

Apportionment formula: 40% on the basis of land area including coastal and Great Lakes waters;
60% on the basis of paid fishing license holders

Maximum apportioned to a State: 5% of total funds apportioned
Minimum apportioned to a State: 1% of total funds apportioned

Puerto Rico receives 1% of total funds apportioned; Guam, American Samoa, the Virgin Islands, and the Northern Mariana Islands each receives 1/3 of 1%.

FEDERAL AID IN WILDLIFE RESTORATION (PITTMAN-ROBERTSON)

Source of funds: 11% excise tax on sporting arms and ammunition
10% excise tax on pistols and revolvers
11% excise tax on certain archery equipment

Administrative deductions: Up to 8% of total collections

Apportionment formula:

1. Wildlife Restoration

   Funds from tax on arms and ammunition plus 1/2 of tax on handguns and archery equipment.

   50% on the basis of land area;
   50% on the basis of paid hunting license holders

   Maximum apportioned to a State: 5% of total funds apportioned
   Minimum apportioned to a State: 1/2 of 1% of total funds apportioned

   Puerto Rico receives 1/2 of 1% of total funds apportioned; Guam, the Virgin Islands, and the N. Mariana Islands each receives 1/6 of 1%.

2. Hunter Safety

   Funds from remaining 1/2 of tax on handguns and archery equipment.

   Apportioned on the basis of population of each State.

   Maximum apportioned to a State: 3% of total funds apportioned
   Minimum apportioned to a State: 1% of total funds apportioned

   Territories are not included in hunter safety apportionment.

"Pittman-Robertson"
Final Apportionment for Federal Aid in Wildlife Restoration
Fiscal Year 1983

	Wildlife Restoration	Hunter Safety	Total
Alabama	$ 1,488,153	$ 455,699	$ 1,943,852
Alaska	4,412,000	188,200	4,600,200
Arizona	2,077,342	318,383	2,395,725
Arkansas	1,599,830	267,735	1,867,565
California	3,582,847	564,600	4,147,447
Colorado	2,289,882	338,411	2,628,293
Connecticut	441,200	364,035	805,235
Delaware	441,200	188,200	629,400
Florida	1,461,392	564,600	2,025,992
Georgia	1,795,558	564,600	2,360,158
Hawaii	441,200	188,200	629,400
Idaho	1,811,959	188,200	2,000,159
Illinois	1,615,059	564,600	2,179,659
Indiana	1,344,284	564,600	1,908,884
Iowa	1,540,424	341,287	1,881,711
Kansas	1,739,964	276,836	2,016,800
Kentucky	1,335,355	428,916	1,764,271
Louisiana	1,662,630	492,471	2,155,101
Maine	1,024,157	188,200	1,212,357
Maryland	567,844	493,933	1,061,777
Massachusetts	441,200	564,600	1,005,800
Michigan	3,629,299	564,600	4,193,899
Minnesota	2,474,028	477,615	2,951,643
Mississippi	1,394,291	295,278	1,689,569
Missouri	2,147,087	564,600	2,711,687
Montana	2,589,113	188,200	2,777,313
Nebraska	1,530,786	188,200	1,718,986
Nevada	1,671,080	188,200	1,859,280
New Hampshire	441,200	188,200	629,400
New Jersey	468,310	564,600	1,032,910
New Mexico	2,060,153	188,200	2,248,353
New York	2,600,069	564,600	3,164,669
North Carolina	1,588,375	564,600	2,152,975
North Dakota	1,226,441	188,200	1,414,641
Ohio	1,762,655	564,600	2,327,255
Oklahoma	1,757,915	354,393	2,112,308
Oregon	2,379,639	308,402	2,688,041
Pennsylvania	3,862,670	564,600	4,427,270
Rhode Island	441,200	188,200	629,400
South Carolina	975,928	365,398	1,341,326
South Dakota	1,472,442	188,200	1,660,642
Tennessee	2,017,620	537,780	2,555,400
Texas	4,412,000	564,600	4,976,600
Utah	1,775,433	188,200	1,963,633
Vermont	454,711	188,200	642,911
Virginia	1,673,046	564,600	2,237,646
Washington	1,866,245	483,825	2,350,070
West Virginia	1,135,746	188,200	1,323,946
Wisconsin	2,608,530	551,203	3,159,733
Wyoming	1,828,107	188,200	2,016,307
Guam	147,067	—	147,067
Puerto Rico	441,200	—	441,200
Virgin Islands	147,067	—	147,067
Mariana Islands	147,067	—	147,067
Total	$88,240,000	$18,820,000	$107,060,000

"Dingell-Johnson"
Final Apportionment for Federal Aid in Fish Restoration
Fiscal Year 1983

Alabama	$ 540,262
Alaska	1,639,000
Arizona	707,281
Arkansas	564,564
California	1,639,000
Colorado	843,469
Connecticut	327,800
Delaware	327,800
Florida	663,744
Georgia	667,870
Hawaii	327,800
Idaho	574,969
Illinois	713,180
Indiana	516,696
Iowa	498,476
Kansas	501,658
Kentucky	536,229
Louisiana	503,860
Maine	327,800
Maryland	327,800
Massachusetts	327,800
Michigan	1,242,445
Minnesota	1,260,520
Mississippi	439,022
Missouri	810,300
Montana	745,460
Nebraska	420,146
Nevada	509,497
New Hampshire	327,800
New Jersey	327,800
New Mexico	592,662
New York	775,646
North Carolina	493,992
North Dakota	358,959
Ohio	790,999
Oklahoma	629,121
Oregon	812,487
Pennsylvania	822,554
Rhode Island	327,800
South Carolina	395,013
South Dakota	385,421
Tennessee	583,759
Texas	1,639,000
Utah	564,748
Vermont	327,800
Virginia	501,719
Washington	828,781
West Virginia	327,800
Wisconsin	1,172,339
Wyoming	524,484
Guam	109,267
Puerto Rico	327,800
Virgin Islands	109,267
American Samoa	109,267
Mariana Islands	109,267
Total	$32,780,000

Final Apportionment for Federal Aid in Wildlife Restoration
Fiscal Year 1984

	Wildlife Restoration	Hunter Safety	Total
Alabama	$ 1,213,303	$ 374,099	$ 1,587,402
Alaska	3,650,000	154,500	3,804,500
Arizona	1,694,167	261,372	1,955,539
Arkansas	1,325,815	219,793	1,545,608
California	2,931,608	463,500	3,395,108
Colorado	1,918,111	277,813	2,195,924
Connecticut	365,000	298,849	663,849
Delaware	365,000	154,500	519,500
Florida	1,212,294	463,500	1,675,794
Georgia	1,433,537	463,500	1,897,037
Hawaii	365,000	154,500	519,500
Idaho	1,472,712	154,500	1,627,212
Illinois	1,368,858	463,500	1,832,358
Indiana	1,148,452	463,500	1,611,952
Iowa	1,271,738	280,174	1,551,912
Kansas	1,444,421	227,265	1,671,686
Kentucky	1,111,579	352,112	1,463,691
Louisiana	1,382,557	404,287	1,786,844
Maine	859,736	154,500	1,014,236
Maryland	475,830	405,487	881,317
Massachusetts	365,000	463,500	828,500
Michigan	3,027,827	463,500	3,491,327
Minnesota	2,080,157	392,091	2,472,248
Mississippi	1,141,335	242,404	1,383,739
Missouri	1,773,629	463,500	2,237,129
Montana	2,149,786	154,500	2,304,286
Nebraska	1,273,041	154,500	1,427,541
Nevada	1,424,887	154,500	1,579,387
New Hampshire	365,000	154,500	519,500
New Jersey	367,187	463,500	830,687
New Mexico	1,713,657	154,500	1,868,157
New York	2,178,073	463,500	2,641,573
North Carolina	1,298,765	463,500	1,762,265
North Dakota	1,007,355	154,500	1,161,855
Ohio	1,448,076	463,500	1,911,576
Oklahoma	1,402,483	290,934	1,693,417
Oregon	1,947,840	253,178	2,201,018
Pennsylvania	3,212,294	463,500	3,675,794
Rhode Island	365,000	154,500	519,500
South Carolina	775,894	299,968	1,075,862
South Dakota	1,232,465	154,500	1,386,965
Tennessee	1,662,470	441,483	2,103,953
Texas	3,650,000	463,500	4,113,500
Utah	1,481,801	154,500	1,636,301
Vermont	395,450	154,500	549,950
Virginia	1,394,357	463,500	1,857,857
Washington	1,479,414	397,189	1,876,603
West Virginia	957,170	154,500	1,111,670
Wisconsin	2,195,961	452,502	2,648,463
Wyoming	1,493,910	154,500	1,648,410
Guam	121,666	---	121,666
N. Mariana Islands	121,666	---	121,666
Puerto Rico	365,000	---	365,000
Virgin Islands	121,666	---	121,666
Total	$73,000,000	$15,450,000	$88,450,000

Final Apportionment for Federal Aid in Fish Restoration
Fiscal Year 1984

Alabama	$ 524,235
Alaska	1,569,000
Arizona	680,662
Arkansas	544,328
California	1,569,000
Colorado	793,055
Connecticut	313,800
Delaware	313,800
Florida	619,429
Georgia	583,498
Hawaii	313,800
Idaho	528,469
Illinois	719,217
Indiana	527,413
Iowa	477,896
Kansas	478,943
Kentucky	510 387
Louisiana	474,978
Maine	313,800
Maryland	313,800
Massachusetts	313,800
Michigan	1,134,497
Minnesota	1,271,901
Mississippi	401,702
Missouri	788,493
Montana	716,120
Nebraska	408,643
Nevada	488,339
New Hampshire	313,800
New Jersey	313,800
New Mexico	570,191
New York	756,058
North Carolina	469,511
North Dakota	350,926
Ohio	813,570
Oklahoma	611,698
Oregon	742,059
Pennsylvania	793,133
Rhode Island	313,800
South Carolina	356,206
South Dakota	384,331
Tennessee	572,765
Texas	1,569,000
Utah	546,514
Vermont	313,800
Virginia	487,592
Washington	761,050
West Virginia	313,800
Wisconsin	1,101,470
Wyoming	499,721
American Samoa	104,600
Guam	104,600
N. Mariana Islands	104,600
Puerto Rico	313,800
Virgin Islands	104,600
Total	$ 31,380,000

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

[illegible] 1984

Honorable Robert T. Stafford
Chairman, Committee on Environment
  and Public Works
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Thank you for your letter of February 10 signed jointly by you and the Honorable Jennings Randolph concerning the requirement of your Committee to make a report to the Committee of the Budget in order to make recommendations of Fiscal Year 1985 spending levels for the programs within your Committee's jurisdiction.

We are pleased to enclose a copy of approved testimony with the requested budget detail on the 1985 Fiscal Year budget request for the John F. Kennedy Center for the Performing Arts.

We hope the enclosed material satisfies the need of your committee in making your recommendation to the Budget Committee.

Sincerely,

G. Ray Arnett
Assistant Secretary for Fish
  and Wildlife and Parks

Enclosures

STATEMENT OF WITNESS FOR NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS TO DISCUSS THE FISCAL 1985 BUDGET REQUEST FOR THE JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS.

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, I AM PLEASED TO APPEAR BEFORE THIS COMMITTEE TO DISCUSS THE FISCAL 1985 BUDGET REQUEST FOR THE JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS.

SECTION 10 OF THE PUBLIC BUILDINGS AMENDMENTS OF 1972 DIRECTED THE SECRETARY OF THE INTERIOR, ACTING THROUGH THE NATIONAL PARK SERVICE, TO PROVIDE MAINTENANCE, SECURITY, INFORMATION, INTERPRETATION, JANITORIAL, AND ALL OTHER SERVICES NECESSARY TO THE NONPERFORMING ARTS FUNCTION OF THE JOHN F. KENNEDY CENTER. THE SAME PROVISION AUTHORIZED FUNDS TO SUPPORT SUCH SERVICES THROUGH JUNE 1973. CONGRESS HAS PERIODICALLY EXTENDED THE AUTHORITY OF THE 1972 AMENDMENTS. $4,542,000 WAS APPROPRIATED FOR FISCAL YEAR 1984, FOR THE NONPERFORMING ARTS FUNCTION OF THE JOHN F. KENNEDY CENTER IN THE APPROPRIATIONS ACT FOR THE DEPARTMENT OF THE INTERIOR OF NOVEMBER 4, 1983, PUBLIC LAW 98-146.

THE PRESIDENT'S 1985 BUDGET REQUEST OF $4,621,000 REPRESENTS AN INCREASE OF $79,000 OVER THE 1984 FISCAL YEAR KENNEDY CENTER APPROPRIATION DUE TO THE 3.5% SALARY INCREASE WHICH WAS EFFECTIVE JANUARY 8, 1984. WITHOUT AN EXTENSION OF THE PRESENT AUTHORIZATION, THE NATIONAL PARK SERVICE CANNOT CONTINUE BEYOND SEPTEMBER 30, 1984, TO EXERCISE ITS RESPONSIBILITIES, AS REQUIRED BY LAW. THEREFORE, MR. CHAIRMAN, THE ADMINISTRATION STRONGLY RECOMMENDS THE AUTHORIZATION OF $4,621,000 REQUESTED IN THE BUDGET.

MR. CHAIRMAN, I WILL TRY TO ANSWER ANY QUESTIONS YOU AND ANY MEMBERS MAY HAVE.

National Park Service
John F. Kennedy Center for the Performing Arts
FY 1985 Budget Detail

Program by Activities

The Park Management proposed funding level for FY 85 is $4,621,000. This represents the National Park Service share of expenses for operating the Center. Attachment A, details the cost components by object class for this proposed funding level and the Kennedy Center Board share for each. The cost share formula applies to all nonperforming arts functions except security, grounds maintenance, and visitor services. Further detail on specific projects included in the object classes for the proposed funding level is also provided in Attachment A(1).

- Attachment B displays the 10-year cyclic maintenance program and Attachment C displays nonrecurring maintenance projects.

The Park Management funding level for FY 84 is $4,542,000, representing the National Park Service share of expenses including the FY 84 amount of the pay increase equaling $62,800. Attachment D provides the FY 84 shared and non-shared expenses.

The Park Management obligations for FY 1983 totaled $4,303,000 which is displayed by object class in Attachment E.

Economic Assumptions and Spendout Rate

We have built in a 5 percent inflation factor on service contracts. All appropriated funds for NPS-Kennedy Center operations will be obligated in FY 1985.

Outyear Program Changes/Funding Levels

We project a consistent level of NPS operations at the Kennedy Center in future years.

Salaries and Expenses - FY 85 Compared to FY 84

Full-time permanent positions are the same -	70
Total compensable workyears (FTE's) are the same	78.7
Average GS grade is the same -	6
Average GS salary is the same -	$19,700

January 31, 1984

JOHN F. KENNEDY CENTER
FY '85

O/C No.		Shared Expenses K.C. Share 23.8%	NPS Share 76.2%	Non-Shared Expenses Sole Responsibility of NPS*	Total
11.1	F/T Permanent	236,100	755,900	692,000	1,684,000
11.3	Career Seasonal	10,300	32,800		43,100
11.3	Part Time	7,600	24,100	62,500	94,200
11.3	Temporary			16,900	16,900
11.5	Other Personnel Comp.	17,900	56,800	31,700	106,400
12.1	Personnel Benefits	33,100	105,900	137,100	276,100
	Total Personnel Costs	305,000	975,500	940,200	2,220,700
21	Travel & Transp. Persons	1,000	2,000		3,000
23	Utilities	371,000	1,188,000		1,559,000
24	Printing & Reprod.	3,000	9,800	200	13,000
25	Other Services	309,500	990,900	412,300	1,712,700
26	Supplies & Materials	23,900	76,700	25,400	126,000
	TOTALS	1,013,400	3,242,900	1,378,100	5,634,400
	Less K.C. Share				-1,013,400
					4,621,000

*Security, grounds maintenance and visitor services are non-performing arts functions for which NPS is solely responsible.

ATTACHMENT A

ATTACHMENT A(1)

JFK-1/19/84

Fiscal Year 1985

Miscellaneous Contracts and Non-Recurring Items

O/C		
23	Electricity	$1,544,000
	Telephones & Walkie Talkies	15,000
		1,559,000
25	Road Repairs	50,000
	Repair bike trails and sidewalks	19,000
	Minor structural inspection	15,800
	Scaffold - built to order	62,400
	Clean building overhang	22,700
	Install lights and benches (Watergate)	22,800
	Replace ceiling tiles	11,400
	Replace vertical expansion joints	15,000
	Paint seawall rail	5,300
	Inspect & clean interior marble panels	17,600
	Clean flags	5,300
	Steam clean German freizes	15,000
	Roof repairs	50,000
	Replace vinyl floor tile	29,300
	Elevator and Escalator Maintenance*	86,100
	Housekeeping*	822,000
	Pest Control*	2,100
	Trash collection*	8,500
	A/C Maintenance*	22,200
	Tour Assts. & Memorial Security	225,000
	Computer (HVAC) Maintenance	25,000
	Terrace marble replacement	88,000
	Miscellaneous Contracts (incl. Elevator Inspection, secruity system maintenance, carpet storage, office equipment maintenance, training, grounds equipment maintenance, etc.)	92,200
		$1,712,700

*These costs include a 5% increase for inflation from FY '84.

ATTACHMENT B

JOHN F. KENNEDY CENTER
CYCLIC MAINTENANCE PROGRAM*

January 20, 1984

Cycle	Project	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
10	Major structural inspection										50,000
3	Minor structural inspection (expansion joints)					15,800[1]			15,800		
8	Replace carpet Grand Foyer, Hall of Nations & Hall of States							220,150			
8	Replace carpet padding - Grand Foyer, Hall of Nations & Hall of States (4 yrs. after purchase of carpet)				20,000[3]						
4	Replace vertical expansion joints					15,000[4]				15,000	
4	Inspect & repair 8 expansion joints on East Plaza Drive			12,500				12,500			
3	Recaulk terraces	26,000			30,000			30,000		30,000	
8	Refinish exterior columns (River Terrace,			70,000							
3	Refinish bronze doors and hand-rails in theaters				20,000[2]			20,000			20,000
15	Refurbish elevators	24,900									
3	Paint ceiling tile interior ceilings						17,000			17,000	
10	Replace vinyl floor tile					29,300[4]					
10	Terrazzo floors - Men's Rooms									11,000	
10	Terrazzo floors - Ladies Rooms	8,892									
3	Relamp O/H & C/H chandeliers				63,000[4]			63,000			63,000
8	Paint G/F, H/N, H/S ceilings							90,000			
7	Clean flags					5,300[3]					
10	Paint upper and lower soffits										
6	Clean drapes (4 yrs after new drapes are hung)				10,000						62,000
7	Paint Grand Foyer walls				70,000						
8	Replace Grand Foyer drapes								66,000		
8	Replace Grand Foyer Wall covering				170,100[1]						
3	Inspect & clean interior marble panels					17,600[2]			17,600		

ATTACHMENT B(1)

JOHN F. KENNEDY CENTER
CYCLIC MAINTENANCE PROGRAM*

January 20, 1984

Cycle	Project	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990
15	Refinish inside columns- Hall of Nations & Hall of States, No. and So. Galleries				49,800						
3	Stain & reseal No. & So. Gallery floors			20,000			20,000			20,000	
7	Paint No. & So. Gallery ceilings							38,000			
10	Inspect & repair condensation walls		70,000					70,000			
8	Refinish exterior columns upper level				**						
5	Paint Seawall rail					5,300					5,300
5	Road paving		8,000					8,000			
10	Tree replacement - 64 willows									55,000	
4	Sculpture cleaning					15,000[4]				15,000	
Normal	Repair sidewalks					19,000					
Normal	Sprinkler system										
		59,792	78,000	102,500	432,900	122,300	37,000	551,650	99,400	163,000	200,300

*Based on Feb. 1983 prices
** Included in contract for refinishing interior columns in FY 84.
1 Originally programmed in FY 81
2 Originally programmed in FY 82
3 Originally programmed in FY 83
4 Originally programmed in FY 84

ATTACHMENT C

J.F.KENNEDY CENTER
NON RECURRING PROJECTS PROGRAMMED FY '82 - '86

	FY '82	FY '83	FY '84	FY '85	FY '86
Energy/Environ.Mgt.System					
First Phase	313,028				
Second Phase		159,000	20,000		
Build Scaffold to order.				62,400 (1)	
Lights and Benches - Watergate Walk				22,800 (1)	
Clean Rock Creek Overhang				22,700 (1)	
Replace insulation Service Drive & Air Handlers			15,000		
Terrace marble replacement				88,000	100,000
TOTALS	313,028	159,000	35,000	195,900	100,000

(1) Originally programmed in FY '81

ATTACHMENT D

January 31, 1984

JOHN F. KENNEDY CENTER
FY '84

O/C No.		Shared Expenses K.C. Share 23.8%	Shared Expenses NPS Share 76.2%	Non-Shared Expenses Sole Responsibility of NPS*	Total
11.1	F/T Permanent	227,500	728,400	695,500	1,651,400
11.3	Career Seasonal	11,100	35,700		46,800
11.3	Part Time	7,400	23,700	60,100	91,200
11.3	Temporary			16,900	16,900
11.5	Other Personnel Comp.	17,700	56,800	31,000	105,500
12.1	Personnel Benefits	32,700	104,600	135,000	272,300
TOTAL PERSONNEL COSTS		296,400	949,200	938,500	2,184,100
21.	Travel & Transp. Persons	1,000	2,000		3,000
23.	Utilities	371,000	1,188,000		1,559,000
24.	Print. & Reprod.	3,000	9,800	200	13,000
25.	Other Services	358,000	1,145,200	205,000	1,708,200
26.	Supplies & Matls.	21,900	70,100	34,000	126,000
TOTALS		1,051,300	3,364,300	1,177,700	5,593,300
Less K.C. Share					- 1,051,300
					4,542,000

*Security, grounds maintenance and visitor services are non-performing arts functions for which NPS is solely responsible.

ATTACHMENT D(1)

1/17/84

FY 84

Miscellaneous Contracts and Non-Recurring Items

O/C		
23	Electricity	$ 1,544,000
	Telephones & Walkie Talkies	15,000
		1,559,000
O/C		
25	Pest Control	1,100
	Trash Collection	8,300
	Air Cond. Maintenance	21,100
	Elevator & Escalator Maintenance	82,000
	Housekeeping	782,000
	Relamping O/H and C/H	63,000
	Purchase carpet padding	20,000
	Recaulk Terrace	30,000
	Refinish bronze doors & Handrails	20,000
	Paint G/F Walls & replace Wallscaping	240,100
	Replace insulation Service Drive & Air Handlers	15,000
	Tour Assts. & Mem. Security	205,000
	Roof Repairs	50,000
	Energy Management System	20,000
	Clean G/F Drapes	10,000
	Refinish inside columns	49,800
	Miscellaneous contracts	90,800
		1,708,200

Attachment E

John F. Kennedy Center
FY 1983
Obligations by Object Class

Object Class		Total Obligations
11.1	Full-time Permanent	1,341,000
11.3	Career Seasonal/ Part-time/ Temporary	112,000
11.5	Other Personnel Compensation	77,000
12.1	Personnel benefits	245,000
	Total Personnel Costs	1,775,000
21	Travel & Transportation of Persons	3,000
23	Utilities	1,137,000
24	Printing and Reproduction	1,000
25	Other Services	1,250,000
26	Supplies and Materials	132,000
31	New Acquisitions	3,000
42	Torts	2,000
		4,303,000

TENNESSEE VALLEY AUTHORITY
KNOXVILLE, TENNESSEE 37902

OFFICE OF THE BOARD OF DIRECTORS

February 24, 1984

The Honorable Robert T. Stafford
Chairman
Committee on Environment and Public Works
United States Senate
Washington, D.C. 20510

Dear Senator Stafford:

We are happy to provide the material requested in your letter to us dated February 10, 1984. The enclosed material consists of testimony for the record which, in addition to highlighting TVA's budget request for 1985, respond to specific questions for which you requested answers. Also included as an enclosure are the answers to the additional questions.

As you know, TVA's annual budget consists primarily of the budget for its self-financing electric power program. In spite of the fact that obligations and expenditures of the power program do not involve Government funds and do not represent a commitment of Federal financial resources, they are still treated in the budget as outlays and new budget authority. This means that they must be included in the Committee's section 301(c) report as if they do consume Federal resources. This tends to distort the budget totals. Perhaps it is time for the Committee to renew the plea it has made in the past that the power program be treated in a more appropriate manner.

We are providing separately material requested by your staff at our budget briefing on February 3. We hope this information is helpful. Please feel free to contact me or members of my staff should you require additional information.

Sincerely,

C. H. Dean, Jr.
Chairman

Enclosures

An Equal Opportunity Employer

TESTIMONY OF C. H. DEAN, JR., CHAIRMAN
TENNESSEE VALLEY AUTHORITY
BEFORE THE
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
UNITED STATES SENATE

Mr. Chairman, I am pleased to outline TVA's budget request of $117.5 million for fiscal year 1985.

As TVA begins its second half-century we reaffirm to this committee TVA's commitment to serve the Tennessee Valley region and the Nation effectively through the development of new technologies and approaches to achieving integrated resource development and economic growth.

The technical and other assistance which comprises a significant portion of this Budget Program for fiscal year 1985 can be characterized as TVA helping put back to work the Valley region's r sources, farms, and people.

TVA's activities do not duplicate services offered within the private sector or those provided by other Federal, State, or local agencies. TVA plays a complementary role to ensure that the most significant gaps are filled. Indeed, TVA's efforts normally involve a cooperative arrangement with these entities.

TVA continues to improve its internal management and planning to ensure the return of maximum benefits for the Federal dollars invested. TVA's multiyear planning process has been expanded and includes all appropriated programs as well as our power-financed programs. In addition, each TVA office develops an annual operating plan that is the basis for a monthly responsibility reporting system. Linking business management practices to the Federal budget process is not always easy, but the increased efficiency which can be achieved is well worth the effort.

TVA's budget request of $117.5 million for fiscal year 1985 compares to an appropriation of $125.5 million for fiscal year 1984 and obligations in 1983 of $157.6 million. The reduction from 1984 to 1985 is almost entirely the result of cost savings in the Pickwick Lock project as explained below. The fiscal year 1985 budget is basically a continuation level for the operational components of TVA's programs, even though the total is reduced. Before I present the details of TVA's 1985 programs there are several specific areas I would like to touch on.

The new lock at Pickwick Landing Dam experienced a significant underrun in fiscal year 1983. Due to increased productivity by the construction forces and the reduction of contingency funds as the project approaches completion, this project will be completed some $20 million under its last reported cost estimate--yet on schedule. TVA has recommended deferring some $2.2 million from fiscal year 1983 underruns into fiscal year 1985 to finance other planned activities, thereby reducing TVA's fiscal year 1985 appropriations request. We have also deferred $7 million of fiscal year 1984 appropriations for this project to complete it without the need for any additional appropriated money in fiscal year 1985. I will not call this a first for a Federal project, but it is an accomplishment of which TVA is quite proud.

TVA has reduced its total employment by some 16,000 since the peak year 1981. This reduction resulted principally from the cancellations and deferrals of nuclear plants. Employment is now relatively stable. The relatively small increase from 1984 to 1985 would result from potential outage work on TVA's coal-fired steam plants.

There are no legislative initiatives associated with or necessary to the accomplishment of this Budget Program.

None of the initiatives in this budget result directly from the recommendations of the Grace Commission study. TVA welcomed this independent review of its internal operations and will, of course, implement any of its recommendations which will improve TVA's efficiency and productivity. I must say that there was very little new in the report and none of the recommendations were adopted by the Office of Management and Budget in its budget review.

Mr. Chairman, I would now like to detail our plans for 1985.

NATURAL RESOURCES

In fiscal year 1985 TVA requests $55 million for natural resources programs. This reduction from the 1984 appropriation of $60 million is principally the result of savings in the construction of Pickwick Lock. The $55 million request will fund the following activities:

> Regional water management will initiate two major new activities. The first will be a demonstration project to address nonpoint pollution within the watershed. The project will include monitoring and assessment, but more importantly will seek to develop management plans to control nonpoint sources such as runoff from cropland, soil erosion, fertilizer and

pesticide residues, failing septic tanks, forestry practices, mining, and construction. It is hoped that a combination of existing strategies of point source control and new methods of nonpoint control will lead to more effective ways of achieving water quality goals. A second initiative will seek to demonstrate in northeast Mississippi a method to improve the efficiency and effectiveness of public water systems with domestic and industrial water supplies vulnerable to overuse. These demonstrations will be in addition to ongoing activities that work for maximum use of reservoir water supplies, solutions to specific critical stream quality problems, groundwater protection, and reservoir water management plans.

Reservoir releases improvement activities will see the completion of an aeration system at Douglas Dam and similar work initiated at Boone, Tims Ford, and Chatuge Dams. TVA's efforts have significantly improved dissolved oxygen levels at five dams, but experience has shown that an off-the-shelf technology is not yet feasible.

Reservoir system operations form the heart of TVA responsibilities on the Tennessee River system. Mainstream navigation channels extend over 650 miles, with an additional 150 miles on tributary streams, and supported about 4.8 billion ton-miles of shipping in 1982. TVA is pleased to inform this committee that the Pickwick lock is being brought into operation on schedule and below cost. TVA is proud to have been able to provide this important link for navigation on the Tennessee, Tombigbee, Ohio, and Mississippi Rivers. Flood damage prevention benefits average $140 million a year, of which more than $8 million accrue to areas along the lower Ohio and Mississippi Rivers. Hydropower production yielded 21 billion kilowatthours in fiscal year 1983, up from 12 billion kilowatts in 1982. Management of the system of 38 multipurpose reservoirs is the most visible example of the TVA philosophy of flexibility and interdependence. Stewardship of TVA lands and landrights along the 11,000 miles of reservoir shoreline, protection of reservoir ecology including confrontation of problems such as the recent introduction of the aquatic weed hydrilla to TVA impoundments, aggressive reassessment of TVA dams with regard to modern-day design criteria for new dams contained in the _Federal Guidelines for Dam Safety_, and a land management approach heavily oriented to public participation are all reflective of TVA's commitments.

Dam safety modifications may be required at some 21 dams in the TVA system. Modifications are already underway at four dams (Blue Ridge, Wheeler, Watauga, and Boone). Studies have typically shown TVA's dams to be sound, but modifications would be necessary to meet improved Federal dam safety criteria for new dams. Increased funding in 1985 will provide for planned modifications to Chatuge and Cherokee Dams to improve safety. Requests for other dam modifications will be made in the future as engineering analyses are available.

Forest resources activities will continue to focus on improving forest productivity by 40 percent and expanding the markets for low-quality hardwoods as a means of creating jobs. TVA demonstrations and technical assistance in harvesting techniques and operating efficiencies have been augmented by its pioneering developments in forest management technology. In 1983 the Forest Resources Systems Institute was organized with TVA assistance to carry on this work. The Institute affords a much broader scale of participation into the management of the region's forests. In 1985 TVA will make the last of supplemental financial assistance to the Institute, although it will remain a participatory member.

Regional air management activities will supplement TVA's four existing air quality trend monitoring stations with six new cooperative stations in conjunction with State and local agencies. Five of these will monitor specific localized air pollutants and one will focus on toxic air pollution. TVA's initiative in these areas performs an essential role in making specialized information available to regulatory agencies and industry. This information is used in determining air quality parameters necessary in dispersion modeling and developing proper control strategies and development plans.

Land Between The Lakes serves as an innovative national model for resource management. To better serve the millions of Americans coming to that area, campground expansions have been completed as a part of jobs bill activities and are expected to result in a 20-percent increase in visitation levels over 1983. Joint research on tick control techniques initiated in 1983 will be continued. A director of the new LBL Association was recently appointed, and a membership of some 4,000 is projected by 1985. The Association is expected to help expand the diversity of LBL development and participation, and serve an important supplementary role in the LBL mission.

ECONOMIC AND COMMUNITY RESOURCES

Economic development and analysis activities will continue to offer reliable economic and demographic data that local leaders can draw upon in making decisions affecting local development. The success of the initial efforts of the new existing industries program has encouraged us to increase our efforts in 1985. The technical assistance TVA has provided regional industries through this effort is proving a highly effective way to improve productivity and create new jobs.

Minority economic development places emphasis on technical assistance to socially and economically disadvantaged businesses in the region and community-based development corporations. These efforts are aimed at bringing a greater number of socially and economically disadvantaged businesses in the Valley into the mainstream regional economy.

Special opportunities counties and cities activities focus on the poorest and most economically stagnant Valley areas. Efforts within targeted counties assess the particular problems and opportunities of the individual areas and work to create the jobs that have simply not existed for local residents. Improved community facilities, training, transportation alternatives, and financial marketing and analysis have all been employed in establishing jobs.

Skills development activities involve an aggressive effort to improve both the immediate skills of Valley workers and establish long-term programs within Valley institutions capable of responding to contemporary industrial training requirements. This effort involves more than 40 regional vocational schools and community colleges, over 90 individual industries, all seven Valley State governments, and crafts and trades organizations.

Community preparedness activities work to achieve self-sufficiency and organizational institution building in communities that have growth potential. A key ingredient of this program is the active interest shown by the communities, although they often lack the structure or knowledge of how to effectively capitalize on local potential.

Regional waste and water supply activities are designed to demonstrate advanced solid waste and water supply management practices. As a part of this effort in 1985, TVA will be continuing to pursue options for handling hazardous wastes in an environmentally acceptable manner. TVA does not presume a particular solution or technology, but is committed to seeking a solution that is acceptable to residents, industry, and government.

AGRICULTURAL RESOURCES DEVELOPMENT

TVA's agricultural resources development program involves a comprehensive effort to combat soil erosion, reverse the trend of declining yields of cash crops, restore and conserve plant nutrients, and increase the value of agricultural land in the Valley. Market development is a key activity to expanding economic opportunities for farmers. TVA's assistance in the development of cooperative markets, along with special production, distribution, and business management programs, will lead to the creation of efficient local market organization. Perhaps most important are the elements of this program which deal with family farms. The emphasis is on the long-term management of land, labor, and capital, with careful consideration of changes in land use to increase crop yields. The technologies perfected in these living laboratories can be used all over the world where similar agriculture problems exist.

TVA has requested $5.5 million to pursue these goals and others such as introducing high-income crops, program evaluation, and nutrients and energy from animal wastes in the agricultural resources development program. This will continue the same basic level of programs as the 1984 appropriation of $4 million, with the exception of increased funding for soil conservation work.

NATIONAL FERTILIZER DEVELOPMENT

TVA requests $45.8 million for the national fertilizer development program. This is an increase from the 1984 level of $41.5 million, which is principally associated with the hardwood fuels initiative.

--Nitrogen efficiency. Farmers annually invest about $4 billion in 11 million tons of nitrogen produced from 400 billion cubic feet of natural gas. Usually between 30 and 50 percent of that nitrogen is lost through volatilization and leaching. This budget will provide for the fifth year of a ten-year research effort expected to produce a 10 percent gain in nitrogen-use efficiency. The annual benefit would be 80 times the cost of all the research.

--Conservation in processing. Tremendous losses of phosphate, energy, and uranium result from current processing methods being used in Florida, the source of 80 percent of the Nation's phosphate. Annual losses are estimated at about $480 million and 460 trillion Btu's of energy. TVA's research effort is designed to increase phosphate recovery during beneficiation and acid production, increase uranium recovery by 20 percent, and reduce the amount of energy consumed by 3 million Btu's per ton of phosphate material. Ultimate annual benefits are expected to be $400 million and 260 trillion Btu's of energy--again, 80 times the 10-year cost of the research.

--New fertilizer materials. TVA has identified new fertilizer materials which offer promise as raw materials without having to remove the impurities. Full evaluation is necessary to determine the benefits to be derived from using a lower cost raw material. Another promising new material can be made directly from the cheapest source of phosphate--beneficiated phosphate ore. More evaluation is necessary to determine its nitrogen utilization efficiency.

--Ammonia from coal. TVA hopes to complete the testing program for the ammonia-from-coal process this year, and feels that the technology has been successfully demonstrated. Additional testing is necessary to provide design information for retrofitting coal gasification units to natural-gas-based ammonia plants. Additional funding for test operation will also be vigorously pursued from outside sources.

--Hardwood fuels research. TVA will continue fabrication of a small, contiguous laboratory research unit to produce ethanol from hardwoods. The successful development of a process and the use of wood available in the Valley has the potential of providing up to 30 thousand jobs and $500 million in economic activity annually. TVA will cooperate and coordinate activities with DOE, USDA, other Federal and State agencies, and private industry to ensure full utilization of the information and to avoid duplication of effort.

POWER PROGRAM

TVA's power program and its customers still enjoy electric power rate stability. And that stability has given us opportunities to pursue excellence in internal management that we hope will make TVA a model for other Federal entities.

TVA reduced its wholesale power rates by 5.8 percent in the last half of fiscal year 1983. At the start of fiscal year 1984 rates returned to their previous levels, and actual bills to customers on the TVA system in 1984 are at about the same level as they were in October 1982.

Lower inflation and interest rates, along with favorable rainfall, have undeniably assisted our efforts to stabilize rates. We are proud of the fact, however, that we have in addition undertaken the tough measures necessary to tailor our power program to a market growing at a slower rate than we had anticipated ten or even three years ago.

The major step we took was deferral and cancellation of construction of nuclear plants in 1981 and 1982. Having done this, we have emphasized once again the basics of management. For the first time in TVA's history our inventory of supplies and materials has declined, reducing our inventory carrying costs. We have also reduced our coal inventories and expect to see further reductions. Perhaps the more important point is that we are instilling in our managers and employees a cost-consciousness which is as vital in public enterprises as to private enterprises.

To maintain its reputation for excellence in the electric power industry, it is not enough for TVA to respond to lower load growth projections with a reduced capital program. Not only have the levels of power demand changed, but also the nature of ratepayers' demands for energy services--stated simply, people want more choices about how and when to use electricity. TVA's and the TVA power distributors' response has been conservation, load management, and renewable resource programs that give consumers real choices.

These programs, which have gained national recognition, also help TVA on the production side. They delay the time, probably by several years, when TVA will have to commit itself to new, expensive central station generating capacity. And we are now developing contingency programs whereby we will be able to invoke additional decentralized energy sources should additional capacity be required on short notice.

I want to emphasize that in today's power market, with its demand and regulatory uncertainties, flexibility in supply of energy services is essential. Another way we are maintaining that flexibility is keeping our coal-fired plants in good running order. Although they are relatively old, they remain, collectively, among the most efficient in the industry.

TVA's nuclear generating capability, with five units on line and four more coming into operation during this decade, will be the base load portion of our power supply capability, freeing the other parts of our generating mix for more flexible service. We know very well that the care exercised by power systems in managing the safe design and construction of plants as well as their safe operation will largely determine the nuclear option's future. This is probably the biggest management challenge facing the electric power industry. TVA will not stint on investment of management talent and of funds for new safety technologies and careful implementation of existing procedures to keep its nuclear plants safe, and thereby operating.

Flexibility of power supply and in market response in the long term is not possible without a vigorous research and development program. TVA has one. We are enthusiastic about our innovative work in flue gas desulfurization, continuous analysis of coal, solar devices, and consumer response to conservation processes, to name a few areas in which we are involved.

We are particularly excited about the atmospheric fluidized-bed combustion demonstration plant that will be constructed at our Shawnee Steam Plant in Kentucky. Our principal partners will be the Electric Power Research Institute, the State of Kentucky, and Duke Power Company, and substantial funds have been committed by the Congress and private sources for the demonstration. We hope to show that the fluidized-bed technology will allow the generation of electricity at competitive costs and in compliance with tough atmospheric emissions standards. An additional benefit of this technology is that it allows the use of low-grade coal without requirements for expensive flue gas scrubbers.

Fluidized-bed combustion could well become the standard technology for power generation in the later years of this century and into the next century. We are pleased to be at the forefront of its development. One added benefit for TVA, as project manager, will be development of a streamlined management system for this project which we can use as a model to evaluate work on our more conventional engineering projects. Another benefit will be to demonstrate again TVA's skills as a Federal enterprise in working creatively with private companies and other levels of government for the Nation's benefit.

This concludes my presentation on TVA's 1985 program. We look forward to working with this committee as we implement what is only briefly discussed here.

1. Question: Please graph TVA actual nonpower appropriations annually from 1960 through the present in constant dollars. In addition, graph expected expenditures for the next five years. Also, please provide a narrative to explain any overall trends or temporary budgetary anomalies which are reflected in the graph(s).

Answer: The attached chart shows TVA's appropriations from fiscal year 1960 to fiscal year 1989 in current dollars (solid line) and constant 1960 dollars (broken line).

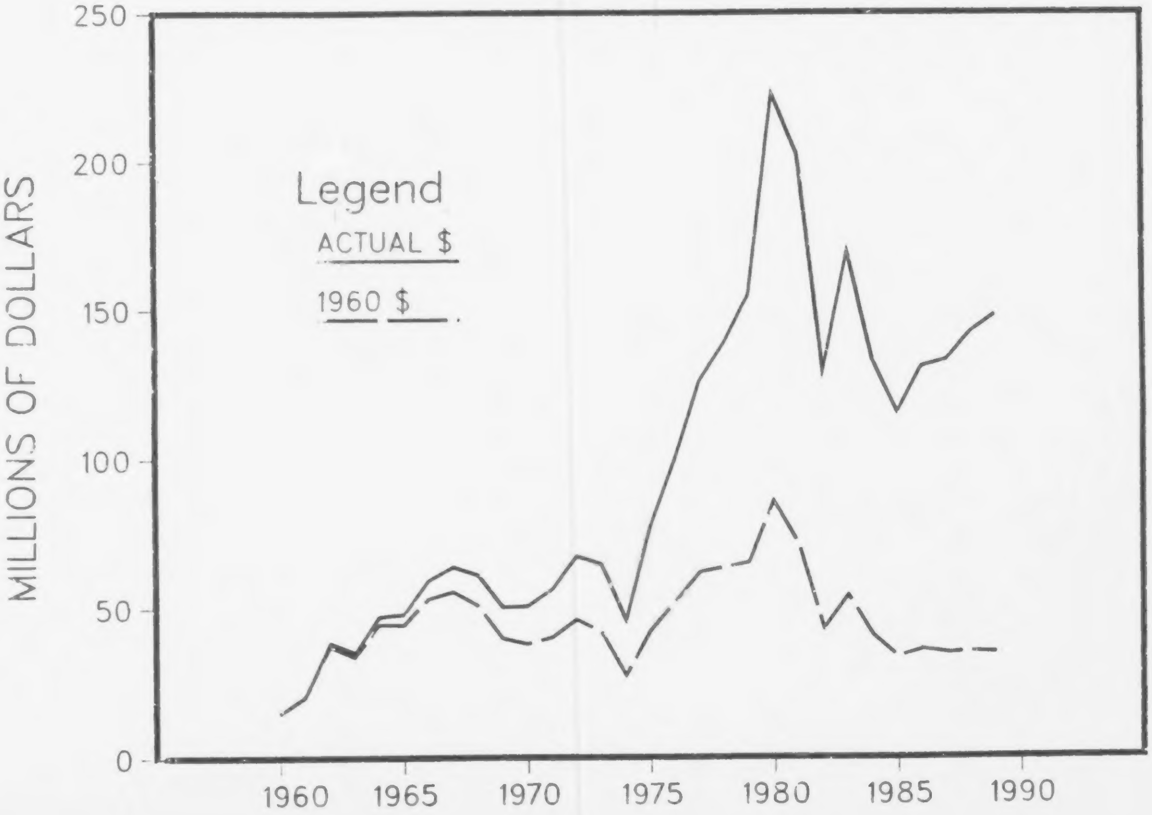
TVA through the years has maintained a relatively level operating program. Therefore, the beginning and ending of construction for major capital investment projects has a pronounced effect on the trend of appropriations. For example, the "roller coaster" effect between 1965 and 1974 reflects the financing of construction projects which included seven multipurpose water control projects. In 1974 TVA experienced a slowdown of construction for two projects due to litigation involving the Endangered Species Act. This resulted in the steep decline in appropriations for 1974, as funding was not provided. However, one project, Tellico, was exempted from the conditions of the legislation and funding was provided to complete the project in 1975.

From 1975 to 1980 TVA received appropriations for new initiatives in energy demonstrations in such areas as fuel cells, transportation, and solar energy; to construct a new lock at Pickwick Landing Dam in west Tennessee; and for design and to oversee the private development of a coal-to-methanol facility in north Alabama. This resulted in the large steady increase in funding during this period.

Since 1980, as TVA completed construction of the facilities mentioned above, the trend declines. However, in 1983 we received a one-time appropriation of $40 million under Public Law No. 98-8 (the jobs bill).

Again, from 1983 to 1989, the trend declines as construction activities are completed for the coal gasification project and Pickwick Lock, and become a level trend based upon no new construction starts financed from appropriations in this time period.

TVA APPROPRIATIONS
BY FISCAL YEARS



2. Question: Please provide estimated annual expenditures in constant dollars through fiscal years 1985-1989 (or as far into the future as possible) for the following programs or activities:

(a) Water resources capital investment (new construction).

(b) Major rehabilitation work on power facilities (particularly hydroelectric and coal-burning facilities).

(c) Dam safety.

Also, please describe insofar as possible the projects or programs which these anticipated expenditures will reflect.

Answer:

(a) Water resources capital investments are funded entirely from congressional appropriations. The river system in place is adequate for meeting current and future needs for navigation and flood control. Therefore, we have not budgeted any funds for major new water facilities in our outyear projections.

(b) All rehabilitation work at power facilities is funded by revenues from power proceeds and borrowings. We estimate total expenditures for additions, improvements, replacement, and rehabilitations to power generating facilities to be as follows:

	Constant 1983 Dollars - Millions		
Fiscal Year	Nuclear Plant Equipment	Fossil & Hydro Plant Equipment	Total
1985	115	115	230
1986	115	100	215
1987	115	100	215
1988	135	100	235
1989	140	100	240

Work activities for nuclear generating plants include planned modifications to improve reliability, efficiency, and safety. Major items include piping, turbine, torus, and steam generator modifications as well as processing and sampling equipment installation.

Rehabilitation work for fossil generating plants includes safety, reliability, and efficiency improvements such as conversion of certain forced draft boilers to balanced draft operation, coal receiving and handling systems, ash disposal systems, turbine rotors, and condenser cleaning systems.

Hydro plant work includes additional supervisory controls, replacement of deteriorated generator windings, and turbine modernization.

(c) We estimate total expenditures from appropriated funds for dam safety capital modifications as follows:

Fiscal Year	Constant 1983 Dollars (In millions)
1985	4.6
1986	9.9
1987	14.3
1988	17.0
1989	17.0

TVA is currently reassessing its dams with regard to modern-day criteria for new dams contained in the Federal Guidelines for Dam Safety. Ongoing studies have identified 21 dams that might fail if subjected to a maximum probable flood or earthquake. While none of the identified defects is of an emergency nature, in most cases dam failure would result in catastrophic loss of life and property. Funding will provide for capital modifications in the ongoing program necessary to improve safety.

3. Question: Please describe TVA's process for setting long-range goals and objectives and the process of how those goals and objectives come to manifest themselves in programs and budget requests.

Answer: Each year TVA offices develop six-year plans (budget year plus five years) for TVA's major programs and projects. These multiyear plans specify overall program direction, recommendations on programs/activities which should receive highest priority during the period, and, to the extent possible, quantified near- and long-term objectives to be achieved. Preparation of these multiyear plans is guided by broad principles of action established by the Board as part of TVA's corporate strategy and, more specifically, by multiyear planning guidelines which flow from corporate management's review and discussion of the results of such ongoing work as reports of financial performance, economic forecasts, policy analyses, program evaluations, and public participation activities.

Based on Board review and discussion of the programmatic goals and objectives contained in the multiyear plans, each office prepares a preliminary operating plan for the upcoming fiscal year and detailed budget request for the following fiscal year. Operating plans include any special objectives which the Board has directed the offices to pursue during that year.

4. Question: Please discuss in detail any new initiatives TVA intends to take in water quality and water quantity. How much are you requesting for these efforts in fiscal year 1985? What do you expect future budget requests in these areas to be?

Answer: In spite of large expenditures for municipal and industrial wastewater treatment, the number of miles of streams and reservoirs with impaired water use has not decreased significantly. In fact, new water quality problems are being discovered at an alarming rate. One reason for this lack of improvement is the failure to integrate point and nonpoint source pollution control efforts. In fiscal year 1985 TVA, in cooperation with Valley States local governments and other Federal agencies, seeks the funding to initiate a water quality rehabilitation project in a selected watershed which is experiencing water use impairment from both point and nonpoint sources of pollution. Regulatory and nonregulatory approaches to resolving water quality problem areas will be demonstrated. A long-range watershed management strategy for pollution sources will be developed to prevent similar problems from occurring in the future. Results of the demonstration will be applicable to other watersheds, which would be addressed in future years.

An adequate supply of good water is essential to the social and economic development of the Valley, yet many public water supply systems are unable to meet their current demands. Poor water quality, inadequate storage capacity, inadequate supply during droughts, excessive distribution system leaks, and inadequate rate structure to cover operation, maintenance and replacement costs are the major problems. In fiscal year 1985 TVA seeks the funding to carry out a demonstration project in northeast Mississippi, an area which has been plagued with water supply problems, to assist public water systems to deal with inadequate quantity and quality of water supplies. Alternatives for meeting long-term water supply needs will be demonstrated through financial analysis and regional water supply planning.

The total cost of these initiatives is $1,000,000. Of this, $500,000 will go to the river basin rehabilitation activities and $500,000 to the water supply development activities. In fiscal year 1986, an additional $1,000,000 will be needed to complete these demonstrations and to transfer the technology developed to other watersheds and water supply systems in the Tennessee Valley experiencing similar water quality and quantity problems. These demonstrations are also likely to have applications outside the Tennessee Valley region.

In addition to the above initiatives, our reservoir releases improvements program, although not new, has identified significant remaining needs for improvement to dissolved oxygen levels in releases from TVA dams. The potential for enhanced fisheries habitat and industrial expansion resulting from increased dissolved oxygen is considerable. Development of hub baffle applications will be continued, and new strategies incorporating pulsed releases from dams and mixing of stratified water levels within impoundments would be pursued. Funding for 1985 is proposed at $1,125,000. More aggressive action on these problems would probably require $2 million to $3 million per year over the next five years.

5. Question: The 8 percent reduction in the resource management and development budget apparently reflects a lowering in funds for acid rain studies. Please describe the amount of and give the reasons for this reduction. Since the Environmental Protection Agency has an expanded acid rain research budget request for fiscal year 1985, is it the case that that agency will perform some or all of the research TVA might otherwise perform?

Answer: TVA uses acid rain research information developed by EPA and other agencies and plans its own projects to be compatible with such research to prevent duplication of effort; however, TVA does not depend on EPA to perform all the research necessary to meet TVA's responsibilities in the Tennessee Valley. In the development of TVA's fiscal year 1985 budget proposal, it decided to rely upon the National Acidic Deposition Assessment Plan Task Force to provide funding for TVA acidic deposition projects through the use of passthrough funding from EPA, DOE, and other task force lead agencies. We are hopeful that these funds will be made available to TVA. TVA is also currently working with the national Plan Task Force to identify research projects and studies for TVA participation which meet particular Valley needs. TVA will request fiscal year 1986 funding for these activities through direct appropriation and passthrough, as appropriate.

6. Question: Please detail how TVA is utilizing the $40 million in appropriations provided by the jobs bill (P.L. 98-8).

Answer: The attached table provides a brief description of TVA's various jobs bill projects, projected and actual employment, total allocation, and to-date expenditures and obligations. Several criteria were used in selecting these projects. It was decided to target the long-term unemployed in the immediate area of the Tennessee River Valley. The jobs are evenly distributed throughout the TVA area and an equitable number of racial minorities and women were employed. Finally, these projects are economically viable and generally represent necessary work that had previously been identified but were deferred due to a lack of funds. At the current rate TVA will achieve its goal of obligating all funds by the end of fiscal year 1984. The work accomplished will be of lasting value to the people of the Tennessee Valley region and the agency itself, especially to those men and women who were employed and learned valuable job skills through the program.

Project Description	Estimated Number of Jobs to be Created	Actual Employment Through 12/31/83	Project Allocation	Through 12/31/83 Expendi-tures	Through 12/31/83 Obliga-tions
Resurfacing lake access and other roads and parking lots on various TVA reservations and reservoir lands...............................	275	(288)*	$1,882,000	$1,290,353	$1,391,004
Replacing four bridges and upgrading 14 miles of road on The Trace at Land Between The Lakes....	100	46 (15)	6,500,000	2,302,567	2,311,529
Maintenance of recreation areas and reservoirs at TVA reservoirs throughout the Valley, including general cleanup, brush removal, drainage maintenance, minor site improvements, shoreline cleanup, and operation of a barge to remove floating debris.............................	240	199 (6)	3,325,000	2,450,740	2,730,906
Restoration and improvement of 60 miles of roads, resurface 20 miles of roads, and upgrade 20 bridges at Land Between The Lakes.............	55	61 (1)	2,655,000	2,039,030	2,427,057
Modifications to Watauga Dam, including raising the dam top..................................	25	22	750,000	643,271	643,271
Safety modifications to Boone Dam..............	35	23	1,100,000	395,951	398,995
Maintenance of various TVA locks and dams, including the Beech River project, Bear Creek Dam, Upper Bear Creek, Chickamauga project, Kentucky project, and Wilson Hydro lock.......	38	27	525,000	419,119	419,119
Additional development of Yellow Creek Port, including site preparation and construction of an industrial building........................	20	31 (4)	2,500,000	487,815	857,687

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*Numbers of employees in parentheses represent work done by outside contractors.

Project Description	Estimated Number of Jobs to be Created	Actual Employment Through 12/31/83	Project Allocation	Through 12/31/83	
				Expenditures	Obligations
Construction of buildings for high-technology and craft upgrade training and related costs for training programs: north AL and Nashville, TN..	105*	53 (12)	3,410,000	616,492	647,830
Renovations to a Memphis, TN, facility to be rented by the Tennesee Valley Center for Minority Economic Development with funds provided by TVA..............................	35	2 (15)	800,000	804,044	804,044
Removal and disposal of phosphorus production facilities and other cleanup at TVA's National Fertilizer Development Center, Muscle Shoals, AL..	140	152	5,000,000	3,826,409	3,826,409
Maintenance of various facilities, including sewer systems, electrical systems, buildings, fly ash ponds, roads, parking lots, and railroad tracks at TVA's National Fertilizer Development Center, Muscle Shoals, AL..........	115	86 (45)	1,300,000	819,850	826,668
Installation of energy conservation measures at various TVA facilities in TN, KY, and AL.......	85	57	2,000,000	1,049,072	1,067,874
Renovation of navigation markers on TVA waterways throughout the Valley................	65	51 (4)	400,000	257,746	272,746
Maintenance of dewatering areas on the TVA reservoir system by removing silt from obstructed ditches and maintenance of main levee systems..	40	39 (9)	1,400,000	661,885	684,019

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*Number does not include trainees. More than 1,400 people would receive training at an average cost of $1,000 per trainee.

Project Description	Estimated Number of Jobs to be Created	Actual Employment Through 12/31/83	Project Allocation	Through 12/31/83 Expendi-tures	Through 12/31/83 Obliga-tions
Development of new site accesses and associated facilities on the Ocoee and nine other rivers; development of a campground on the Bear Creek floatway	50	- (4)	700,000	36,182	36,182
Rehabilitation of water and sewage systems of Land Between The Lakes	15	16	775,000	417,224	420,214
Expansion of a campground at Land Between The Lakes (Piney Campground)	22	24	1,000,000	709,637	710,015
Implement land-use plans for TVA's Pickwick, Guntersville, and other improvements on mainstream and tributary reservoirs	75	19 (8)	1,000,000	163,604	163,604
Improvement and expansion of two TVA campgrounds in both AL and TN	50	4	400,000	27,122	27,122
Upgrade and expansion of existing TVA environmental education areas at Norris, Nolichucky, Muscle Shoals, and Bear Creek. Addition of new environmental education areas at TVA's Tellico and Chickamauga Reservoirs and at its Fontana, Guntersville, Norris, Kentucky, and Wilson powerhouses	18	17 (4)	500,000	185,842	185,842
Improvement of facilities at locally operated parks that are located on TVA lands throughout the Valley	30	-	800,000	19,111	19,111
Mine reclamation at various TVA sites, including sites of TVA-owned mineral rights and at other sites where necessary to maintain water quality at nearby TVA reservoirs	30	77	500,000	492,351	492,581

Project Description	Estimated Number of Jobs to be Created	Actual Employment Through 12/31/83	Project Allocation	Through 12/31/83 Expenditures	Through 12/31/83 Obligations
Removal and disposal of quonset hut and gravel site at TVA's South Nashville substation*......	12	12 (5)	70,000	28,647	28,647
Remove and replace 23,000-square-foot built-up roofing at Nashville Power Service Center*.....	7	7 (1)	80,000	80,573	80,573
Construct south information center and entrance control stations at Land Between The Lakes.....	20	9	450,000	173,286	185,643
Acquire field survey data for three local flood studies to be conducted in Cherokee, NC, Fayetteville, TN, and Hamilton County, TN......	15	17	125,000	67,735	67,735
Testing, operation, and maintenance of solar pond demonstration in Chattanooga, TN..........	5	-	140,000	92,779	93,389
TVA forest lands management demonstration on Wheeler, Tellico, and Norris reservations, including model techniques of timber stand improvement, tree planting for erosion control.	42	15 (6)	175,000	99,471	112,430
Enhance Valley fisheries resources at TVA reservoirs by constructing fish attractors, and vegetative seeding of shoreline at Nottely, Chatuge, and Blue Ridge Reservoirs............	18	35	300,000	200,719	207,208
New and improved signs at LBL..................	5	4	75,000	40,574	42,783
Nonroutine maintenance at LBL facilities (Brandon Spring Group Camp)....................	5	7	80,000	44,094	74,386

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*Project completed.

Project Description	Estimated Number of Jobs to be Created	Actual Employment Through 12/31/83	Project Allocation	Through 12/31/83 Expenditures	Through 12/31/83 Obligations
Restoration of McGee House......................			100,000		
Road improvements across Blue Ridge Dam.........	9		300,000		
General services................................	15	-	187,000	-	-
Total....................................	1,942	1,112 (427)	41,304,000	20,943,295	22,256,623

A total of $1.304 million is to be derived from power revenues for work to be undertaken on power assets, including the power system's share of the costs of projects undertaken in connection with multipurpose reservoir operations.

7. Question: Please describe in some detail TVA's various efforts to promote energy conservation. What has been the cost of these efforts in previous years and how much money in energy has been saved as a result? How much money is requested for these programs for 1985? Will these programs expand in the future years?

Answer: In an effort to promote energy conservation in the Valley and to help residential consumers save energy and money, TVA offers, through participating power distributors, a free home energy survey, low-interest or no-interest financing for home improvements that save energy, and a free inspection of the finished work. As a part of TVA's home weatherization program, trained energy advisors also discuss low-cost/no-cost conservation practices, such as proper thermostat setting, with the consumer. The consumer is also provided a list of local contractors who have agreed to meet TVA standards for the quality of materials and their correct installation. TVA energy advisors must certify that each energy conservation measure has been properly installed before contractors are paid. Besides home weatherization, other energy conservation measures available to residential consumers include heat pumps, heat pump water heaters, solar water heaters, and, where environmentally acceptable, wood heaters.

In addition, TVA is working with power distributors and other Federal, State, and local agencies on special initiatives to reach low-income and elderly consumers. TVA is also working closely with 23 local community volunteer groups throughout the Valley to develop energy awareness campaigns. TVA has also trained approximately 50 senior peer counselors who work with elderly consumers to encourage the implementation of home weatherization measures.

TVA also offers a load management program to Valley consumers through participating power distributors in an effort to reduce demand on the power system during hours of peak electrical use. To encourage participation, consumers are offered an incentive in the form of a credit on their electric bill of $2 per month year round for water heater cycling and $5 per month June through September for air-conditioner cycling. TVA bears all costs, including those of buying, installing, maintaining, and inspecting the remote-control equipment. Participants agree to take part in the program for at least one full year.

In cooperation with distributors of TVA power, TVA also provides technical expertise, information, and education to Commercial and Industrial (C&I) consumers through its energy conservation, solar, and load management programs. Services available through these programs include onsite energy evaluations of C&I energy utilization facilities; technical assistance for implementing new technologies, such as passive solar design and commercial solar water heating; assistance to firms considering use of biomass and biogas fuels; and training and demonstrations in the latest load management technology.

TVA finances its solar conservation and load management programs exclusively from power proceeds and borrowings. TVA's cumulative resources, excluding financing advances invested in solar, conservation, and load management activities through fiscal year 1983 is $196.8 million. Included in this figure are direct program costs, administrative and overhead costs, and costs for demonstration projects. Cumulative net interest expense on $316 million in funds advanced to power distributors through fiscal year 1983 for financing energy conservation measures is estimated at $69.8 million.

As a result of this investment, approximately 1,349,000,000 kWh of energy are saved annually by residential customers for an annual saving to consumers of approximately $65 million. In addition, a capacity saving of approximately 269,000 kW was realized in the commercial and industrial (C&I) sector through fiscal year 1983 and approximately 576,000,000 kWh are saved annually by C&I customers. This translates into a $24.8 million saving to TVA's C&I customers.

Because TVA's conservation program is part of its self-financing electric power program, no funds are requested to make these expenditures. However, total conservation program expenditures, excluding advances for financing, for fiscal year 1985 are estimated to be $64 million. Net advances for conservation financing are estimated to be $26.6 million in fiscal year 1985, and annual net interest is estimated to be $27.3 million.

TVA will maintain its emphasis on efficient utilization of energy by continuing to promote its ongoing conservation, solar, and load management programs. These programs reduce demand for new generating facilities and decrease the need to operate expensive oil-fired turbines or to buy imported power during periods of peak electrical use. TVA estimates that the energy conservation and load management programs could save $5 billion in operating and power plant construction costs by 1990. An estimated power system demand reduction of approximately 3,000 MW and a reduction in consumption of approximately 6 billion kWh is forecast by 1990.

In addition, TVA is actively involved in the testing and development of new end-use energy management technology that will encourage the conservation of energy through increased energy efficiency, load management, and the use of renewable resources. Projects include: high-efficiency air-conditioners; residential and C&I photovoltaics; demonstrations of solar energy systems in residential homes and in the C&I sector; commercial solar water heating; commercial passive buildings; biomass, biogas, and renewable energy demonstrations; wind energy; load management demonstrations in both the residential and C&I sectors; and various energy education and consumer communications activities.

TVA is undertaking significant research and development efforts aimed at improved conservation and renewable resource energy technologies and hardware. Because many of the imponderables in these new energy areas relate not to the technologies themselves but to their market acceptance, some R&D resources are being devoted to studies of institutional and individual consumer responses to use incentives and the technologies.

Finally, TVA has begun developing plans for introduction of new conservation, load management, and renewable resource programs and expansion of existing programs. These plans will be available as an alternative to the construction of costly new generating sources when it becomes necessary, because of load growth, to consider additional capacity.

8. Question: In what way or ways, if any, is TVA involved in hazardous waste management or cleanup? How much is being requested in fiscal year 1985 for these activities? Will these expenditures increase in future years and if so, by how much?

Answer: TVA is not involved in cleanup of hazardous waste dumps with the exception of TVA's own PCB contaminated soils at the Muscle Shoals Reservation.

TVA has taken the first step toward developing a hazardous waste management system for the Valley. A waste generation survey and a needs assessment are being conducted by Battelle Columbus Laboratories under TVA contract. This survey will determine the kinds and amounts of wastes generated and where. In addition, it will determine the potential for waste reduction through recycle, reuse, and exchange and will quantify the need for treatment capacity. A public assessment and education program is being developed in conjunction and cooperation with States, environmental groups, and industries. TVA's further role in this effort, if any, must await the outcome of that assessment.

In fiscal year 1985 TVA is requesting $150,000 as part of its Regional Waste Management Program. This will be used to ascertain and develop more clearly what is needed in the Valley and the appropriate role for TVA based on the 1984 survey and public participation element. If it is determined that TVA is to have a role, we will request appropriations in outyears, entirely dependent upon the character of the final program.

9. Question: Please describe in detail the present and anticipated program and budget for reservoir releases improvement. How effective will this program be at improving water quality in the Valley?

Answer: Hub baffles will be installed and operated on both units at Norris Dam. The experimental phase of the flow reregulation weir in the Clinch River below Norris will be completed and the weir placed in operation. Aeration systems will be installed and operated at Cherokee, Douglas, Boone/Fort Patrick Henry, Chatuge, South Holston, and Tims Ford Dams. A scheme incorporating pulsed releases at Tims Ford will be developed to provide minimum flows. A system will be installed in Upper Bear Creek Reservoir to increase dissolved oxygen levels in the water in the vicinity of the dam.

Anticipated benefits from the reservoir releases improvement program include (1) increased minimum dissolved oxygen levels below Norris, Fort Patrick Henry, Tims Ford, Chatuge, and South Holston by 2 to 3 mg/l; (2) increased minimum dissolved oxygen levels in the headwaters of the Tennessee River by 1 to 2 mg/l; (3) increased minimum dissolved oxygen levels below Fort Loudoun Dam by 0.5 to 1 mg/l; (4) increased minimum flows in the Clinch River below Norris Dam to 200 cfs and in the Elk River below Tims Ford to 75 to 100 cfs; and (5) reduced iron, manganese, and hydrogen sulfide to EPA water quality criteria levels in releases from Upper Bear Creek Dam.

The Tennessee River ranks among the lowest of the Nation's large river systems when ranked according to their dissolved oxygen content. This is especially unfortunate in a river like the Tennessee which otherwise is considered generallly clean. If it were not for the low oxygen content the economic and recreational potential would be much greater. Implementation of this program will be a giant step toward preventing water resources from limiting the full economic and natural resource development of the Valley.

Between 1985 and 2015 existing industries for which dissolved oxygen is an important factor are anticipated to increase employment by over 9,000 workers in areas impacted by these projects. Associated investments will be almost $1 billion and annual payroll will increase by about $150 million. Increased dissolved oxygen levels will help ensure that this development takes place by eliminating the risk that a critical factor will not be adequate to support expansion.

These activities will also improve the use of waterways for recreational purposes, particularly the coldwater fisheries. The enhanced dissolved oxygen levels and minimum flows at Tims Ford would provide a major coldwater fishery in an area where there currently is none. At Norris the limits on the existing trout fishery will be removed, allowing one of the few large river quality trout fishing areas to result.

Specific program details for ensuing years have not been developed at this time. We anticipate, however, that the total program level will be fairly constant at about $2 million to $3 million per year over the next five years.

10. Question: Please review recent and expected accomplishments of TVA's national fertilizer development program. Has there ever been any estimate made of the amount the benefits of this program versus its costs? Please explain.

Answer: Recent accomplishments. TVA's major impact in fertilizer technology began about 30 years ago with the development and rapid introduction of an economical process for continuous production of high-analysis granular fertilizers containing nitrogen, phosphate, and potash. This was followed by the introduction of diammonium nitrate and a more economical means for producing it, and development of a spectrum of fluid fertilizer technology.

About 90 percent of today's granular mixed fertilizers and fluid mixed fertilizers are made with TVA processes.

The past decade or so has seen the development and introduction of a new family of urea-ammonium phosphates, a slow-release form of nitrogen, and energy-efficient processes for making both fluid and granular fertilizers. We recently began demonstration of a more efficient method for making high-quality granular urea.

In general, our technology has emphasized higher product quality and higher nutrient content, which tends to reduce farmers' costs and minimize food costs to consumers. It would take three bags of fertilizers typical of those marketed 25 years ago to equal two bags today. Obviously, the two bags can be transported and handled for one-third less than the cost of hauling three bags--which saves hundreds of millions of dollars annually.

Expected accomplishments. Today's R&D includes a multidisciplinary effort geared to developing and demonstrating both fertilizer products and fertilizer use systems that make more efficient use of nitrogen fertilizers. Nitrogen is plentiful, but it is very expensive to supply in forms that crops can use. Currently, no more than about half of the applied nitrogen is used in the year of application; much is permanently lost to the environment. TVA's work involves developing new products (such as urea phosphate), testing the use of special chemicals to reduce nitrogen losses, and promoting more efficient cultural practices.

Major effort also is going into developing new technology to process low-grade phosphate into fertilizers. The industry will be forced to turn to phosphate rock with increasing amounts of impurities in coming years, and technology for handling it efficiently is a critical need. We also are working to improve the share of mined phosphate that is recovered in fertilizer products.

And we are giving increased attention to how various wastes of society can be transformed into useful fertilizer products. In other words, we are looking for and developing ways to convert problems into resources.

Estimated benefits. We recently made a study of the partial-benefit/full-cost ratio for the TVA fertilizer program. It indicated a return of more than $20 for each dollar invested since 1935.

11. Question: Why is TVA in the process of combining its Office of Power and Office of Engineering Design and Construction? Will this merger result in significant cost savings? If so, why was it not attempted sooner.

Answer: TVA is combining the Office of Power and the Office of Engineering Design and Construction in order to more efficiently meet the changing conditions that face the power system today. Lower power load demand forecasts have significantly reduced the need for new baseload power plants on the TVA system. The Office of Engineering Design and Construction (OEDC) has traditionally provided these plants for TVA.

More and more of TVA's engineering work now involves modifications and maintenance at existing plants. For this type of work, duties of the engineering forces of the two offices overlap. Combination of the two offices now will enable TVA to centralize technical decisionmaking, eliminate duplication of effort, and still retain the many kinds of expertise now in OEDC. TVA will attempt to keep as many first-rate engineers and other types of professionals as possible.

Moreover, increased regulatory requirements, especially in the nuclear field, and increased technological complexity have underlined the fact that a major determinant of success in building capital facilities in the electric power industry is effective communiation among operating groups and architect/engineers. TVA is confident that merger of its operating and engineering organizations will lead to prompter and better technical decisions based on better information.

A number of study groups are now examining the specific issues of the merger. After these issues are decided, a detailed savings estimate can be attempted. There is little doubt, however, that elimination of overlap and better decisionmaking will result in long-term savings.

12. Question: It has been said that the "dam building days of TVA are over." If this is so, please explain the reasons for this and what impact this reemphasis has or will have on TVA's budget.

Answer: The flood control, navigation, and hydroproduction benefits of TVA dams have been fundamental in the growth of the Valley region. Over the past 50 years TVA has built or acquired 38 dams on the Tennessee River and its tributaries, resulting in the most intensively developed river system in this country. Among the several remaining potential locations TVA has surveyed over the years, no additional sites have been identified that offer clear economic and environmentally acceptable opportunities for development. In addition, it is a high priority within TVA that when needs are identified we concentrate on nonstructural solutions in riverine development whether it is in local flood problem technical assistance or Tennessee River mainstream impoundments.

The stability in the TVA dam system results in two major priority areas for future TVA program direction. Under the first priority, although no new dams are proposed, an average age in excess of 30 years for existing dams and locks points to the increasing requirements of maintenance of these facilities. While TVA stewardship has kept these facilities sound, problems with older structures, as occurred this past year in the impact of concrete growth on navigation lock gates at Chickamauga Dam, may call for extraordinary measures. Other extraordinary costs are being encountered as a consequence of safety modifications made following the guidance of the 1979 Federal Guidelines for Dam Safety, which provides modern-day criteria for new dams. TVA's 1985 budget request is the first to include specific identification for this remedial work and is proposed at a program cost of $5,000,000. A total of 21 dams have been identified as not meeting current design criteria, but in-depth design assessment will not be complete until 1988.

The second major priority is reflected in current activities such as reservoir releases improvements, reservoir reevaluation, white amur studies, and regional water management. The potential to limit pest aquatic weeds through biological controls like the white amur and the need to work with State and local governments to assure that the quality of water flowing into and through the TVA system is not degraded are examples of important efforts to preserve the original benefits of the investments. Other initiatives, such as the efforts to improve dissolved oxygen levels of dam discharges and the reservoir reevaluation program which is developing alternative tools and methods for managing the storage and movement of water through the entire system, are aimed at expanding the total level of benefits. Consistent with TVA's overall approach, we are also seeking to ensure that the experience we gain has applicability to dams and reservoirs outside the Valley.

13. Question: Has TVA made significant changes to its coal procurement program since 1981? If so, will any significant savings be realized as a result? What effect will these savings have on TVA power rates?

Answer: TVA has made major changes in its coal procurement program since 1981. Coal supply planning and procurement is becoming increasingly complex as new nuclear units displace additional fossil units from a base load position to a swing position on the TVA system. To help quantify the uncertainty about future coal burn, TVA is utilizing probabilistic burn estimates for individual plants. This allows TVA to develop strategies to meet varying burns over time and arrive at a flexible and integrated fuel supply plan for the coalfired system. In recognition of this situation, TVA has made numerous changes in its contracting practices aimed at increasing supply flexibility and minimizing costs. Recent contracts have allowed TVA to vary scheduled deliveries by up to 40 percent. Some "spot" (short-term) contracts can now be extended to a 52-week term to allow TVA to take advantage of favorable market situations. Greater use is being made of unilateral and mutual contract renegotiation provisions and the right by TVA to purchase a disadvantageous contract at a predetermined price. TVA is obtaining more quotations from suppliers for alternative destinations and coal qualities. TVA has adopted a price adjustment formula for variations in coal quality which assesses more accurate penalties on coal not meeting specifications. In certain cases, TVA has acquired the right to cancel contracts if the coal causes operational problems at our generating plants.

To control contract price escalation, TVA is setting minimum productivity rates for mine labor and defining the maximum amounts of the component parts of the contract price subject to escalation. In the area of transportation, TVA has recently signed long term contracts with a major rail carrier, and recent coal contracts provide for cancellation if rail rate increases exceed a specified percentage. To increase competition among producers and carriers, multimodal (combinations of rail, barge, and truck) unloading capacity has been installed at one additional plant and is being considered for other plants. Also, TVA is now contracting for transportation services where it is economically advantageous.

TVA has vigorously enforced its rights under existing supply contracts. Major supply contracts have been renegotiated, resulting either in lower prices or contract cancellations. In addition, certain contract delivery schedules have been "stretched out" and other contracts have been reconsigned with changes in quality resulting in reductions in price and transportation. These efforts have significantly reduced TVA's total dollar expenditure for coal procurement over the last 18 months.

Although all the efforts outlined above have been initiated to minimize fuel costs, it is difficult to quantify the cost savings that will ultimately accrue to TVA ratepayers. It must be recognized that, as the fossil system is increasingly called upon to meet the swings in electrical demand, actual burn at many coal stations will vary widely in the short run. As a result, TVA will be required to purchase a larger portion of its coal supply on the spot and short-term markets--perhaps under periods of unfavorable market conditions. TVA is acutely aware of this situation and is firmly committed to exploring new and better planning and procurement practices in order to minimize any potential adverse impacts on future fuel costs.

14. Question: Please estimate the overall reduction in sulfur dioxide from TVA coal-fired electric plants since 1977. How has this program of reductions affected TVA power rates? How would the various acid rain control proposals presently before Congress affect TVA power rates? What, to date, have been the environmental effects of TVA's efforts to reduce SO_2 emissions?

Answer: In fiscal year 1977 TVA coal-fired power plants emitted 2.35 million tons of sulfur dioxide. In fiscal year 1983 these plants emitted 1.03 million tons of sulfur dioxide, a reduction of 1.32 million tons or 56 percent. Approximately 70 percent of this reduction is because of reduction in plant SO_2 emission rates. The remaining 30 percent is because of reduced power generation and improved efficiencies at the coal-fired plants.

Since 1977 TVA has spent about $927 million on control equipment to reduce SO_2 emissions and particulate emissions. The annual cost of amortizing this investment and operating and maintaining the equipment is about $181 million in 1984. TVA must pay a premium for lower sulfur coal being burned at its plants, and in 1984, this cost is estimated to be $165 million. The total annual cost of $346 million results in an increase of about 9 percent in TVA's total revenue requirements.

The effect on TVA power revenue requirements because of acid rain legislation could vary widely depending on the specific legislation enacted and future load demands on the TVA system. If legislation were passed which allocated SO_2 reductions based on total national SO_2 emissions (utility and nonutility) and allowed complete flexibility in how reductions are achieved, the impact on TVA revenue requirements in the 1990s could be on the order of 4.5 to 6 percent for a 12-million-ton reduction goal, 2.5 to 4.2 percent for a 10-million-ton reduction goal, and 0 to 2.6 percent for an 8-million-ton reduction goal.

If legislation were passed which allocated SO_2 reductions based only on utility emissions above 1.2 lb SO_2/MBtu, the impact to TVA revenue requirements in the 1990s could be on the order of 12.6 to 14.4 percent for a 12-million-ton reduction goal, 6.3 to 7.1 percent for a 10-million-ton reduction goal, and 3.5 to 4.9 percent for an 8-million-ton reduction goal. These estimates again assume flexibility in achieving TVA's share of the allocated total reduction, including the right to reduce emissions on a system-wide basis, ignoring State boundaries. The impacts of other legislation being considered by Congress (including legislation imposing a fee on generation) should fall within the 3.5 to 14.4 percent range.

As a result of implementing SO_2 control strategies at TVA's coal-fired steam plants, the occurrence of ambient SO_2 measurements in excess of the national ambient air quality standards dropped from an annual high of 397 in 1976 to no occurrences in 1983. Similarly, the occurrence of verifiable complaints concerning SO_2 injury to vegetation near TVA's coal-fired plants declined from an annual high of 160 in 1978 (approximately 8,500 acres of crops affected) to no occurrences in 1983. The maximum 3-hour and 24-hour sulfur dioxide concentrations near the steam plants during 1976 were 9,620 and 1,690 microgram per cubic meter, respectively. The corresponding maximums in 1983 were 1,066 and 247 micrograms per cubic meter.

15. Question: Has TVA amended its ratemaking procedure since 1981 to allow more time between the initial presentation of information to the public on proposed rate changes and the final decisions about rates?

Answer: Changes affecting the amount of time available for public review and comment were made during 1981. Prior to that time, rate adjustments were recommended two weeks before final action was to be taken by the Board. In 1981 the Committee on Environment and Public Works observed that a longer period of time between the announcement of the Office of Power's recommendation and final Board action would permit the public a greater opportunity to analyze the recommendation and to offer comments before the Board took action. After considering this matter, TVA revised its practice. so that there would be approximately four weeks between the initial presentation of rate information publicly and the decision as to what rate adjustments, if any, would be made.

16. Question: Since 1981 has TVA made efforts to adjust its wage and benefit policies in order to provide extra incentive for valuable high-level experienced managerial and technical personnel to stay with TVA? Also, has TVA made any changes in the way it calculates prevailing wage rates for the purpose of wage negotiations with groups representing its employees? If so, have any significant labor cost savings been realized?

Answer: Since 1981 TVA has made adjustments to its management salary survey process in order to obtain more representative data from its relevant labor markets. Implementation of survey results has enabled us to set pay levels with greater internal equity and external competitiveness within the constraints presented by the Federal pay structure. TVA has also emphasized the use of monetary incentives to attract and retain competent managerial and technical personnel within its nuclear operations. The incentives are aimed at encouraging nuclear operations managers to qualify for and retain reactor operator licenses, to accept and continue to hold difficult power plant management positions, and to stay with TVA to maintain their eligibility for the incentives.

In addition, TVA's fiscal year 1985 appropriations language contains wording which would permit TVA to pay special allowances in addition to basic pay to recruit and retain physicians under 5 U.S.C. 5948 (the Federal Physicians Comparability Act of 1978).

TVA surveys wages and benefits in the relevant labor markets and negotiates wage and benefit packages for the employees covered by three contracts. The surveys were modified in 1980-1981 and resulted in more representative sample of the relevant labor markets, and TVA has negotiated closer to that position. We do not have data available on specific labor cost savings realized.

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TENNESSEE VALLEY AUTHORITY

Budget Summary
(In thousands of dollars)

	1983 Actual	1984 Estimate	1985 Estimate
Total TVA Funding:			
Appropriations......................	157,585	216,765	124,500
Power proceeds and borrowings......	4,701,000	4,911,000	5,211,000
Nonpower proceeds..................	53,560	90,619	64,788
Total.........................	4,912,145	5,218,384	5,400,288
Funding of Appropriations Activities:			
General appropriations.............	176,433	78,229	115,308
Jobs bill appropriations (P.L. 98-8)......................	40,000	-	-
Supplemental appropriations (Ocoee)	-	7,400	-
Deferred from 1983 to 1984.........	-47,271	47,271	-
Deferred from 1984 to 1985.........	-	-9,192	9,192
Unobligated balance brought forward	81,480	93,057	-
Unobligated balance carried forward	-93,057	-	-
Program total.................	157,585	216,765	124,500

The Tennessee Valley Authority, since its creation in 1933, has been concerned with carrying out its statutory mandate for the natural and human resource development of this region. The broad range of TVA activities has included electrification, navigation, flood control, water quality, forestry, agriculture, soil erosion industrial development and recreation.

TVA's basic responsibilities include the generation and sale of electricity and the operation, maintenance, and further development of the Tennessee River system and its tributaries for navigation and flood control. In general, TVA now exercises its economic development, natural resource, and agricultural responsibilities in cooperation with other Federal, State, local, and private entities.

The following sections highlight TVA's budget program for 1985 in comparison with the 1984 budget program approved by Congress.

TENNESSEE VALLEY AUTHORITY

Budget Financed from Appropriations
(In thousands of dollars)

	1984 Estimate	1985 Estimate
Natural resources		
Capital investment	27,714	14,819
Operating expenses	46,662	40,260
Total natural resources	74,376	55,079
Economic and community resources		
Capital investment	3,019	180
Operating expenses	17,325	14,600
Total economic and community resources	20,344	14,780
Agricultural resource development		
Operating expenses	5,305	5,525
National energy demonstrations		
Capital investment	40,341	-
Operating expenses	517	-
Total national energy demonstrations	40,858	-
National fertilizer development		
Capital investment	7,199	6,270
Operating expenses	36,261	39,505
Total national fertilizer development	43,460	45,775
General services		
Capital investment	4,972	2,691
Operating expenses	630	650
Total general services	5,602	3,341
Jobs bill (P.L. 98-8)	26,820	-
Total budget financed from appropriations	216,765	124,500

TENNESSEE VALLEY AUTHORITY

Budget Financed from Power Proceeds and Borrowings
(In millions of dollars)

	1984 Estimate	1985 Budget Appendix
Power supply and use		
Capital investment..................................	1,343	1,332
Operating expenses..................................	3,784	4,054
Inventories, deferred charges,and investment funds...	-216	-175
Total financed from power proceeds and borrowings..................................	4,911	5,211

Estimates for 1985 for the power program are presented in a range. However, a single value was used in the Appendix to the Budget of the United States. This value was used to accommodate the reporting format required by the Office of Management and Budget. We have used this estimate for fiscal year 1985 for comparison purposes.

Natural Resources

TVA's natural resources program is designed to continue to develop and maintain its extensive system of locks, dams, reservoirs, and related lands and to encourage, through example and technical assistance, the wise use and/or protection of the natural resources of the Valley, including the land, air, water, wildlife, and forests.

	In Thousands of Dollars		
	1984 Estimate	1985 Estimate	% Change
Capital investment			
New lock at Pickwick Landing Dam..........	17,000	7,000	-41
Columbia Dam and Reservoir................	5,085	-	-100
Dam safety modifications..................	-	5,000	+100
Additions and improvements................	5,339	2,619	-49
Other.....................................	290	200	-69
Total..............................	27,714	14,819	-53

Construction of the Pickwick lock is expected to be completed within a revised estimated total cost of $142.2 million, a reduction of $22.8 million. Construction efficiencies, and less than anticipated unit material costs together with good weather, resulted in the reduced cost. The date for lock operation is now estimated to be July 1984, with project completion in August 1985. (These dates reflect a 3-month and 12-month advancement in the schedule, respectively, from dates previously reported.) Funding totaling $7.0 million for fiscal year 1985 to complete this project was appropriated in prior years and is not a part of TVA's 1985 appropriation request.

Reduced funding for additions and improvements in 1985 reflects anticipated completion of ancillary features of the Tellico Dam and Reservoir, completion of which was extended into fiscal year 1984, and less planned equipment purchases in 1985.

Reductions in the other category principally reflect lower levels of capital investment at Land Between The Lakes.

	In Thousands of Dollars		
	1984 Estimate	1985 Estimate	% Change
Operating expenses			
Water resources...........................	3,437	4,065	+18
Reservoir system operations...............	21,785	21,465	-1
Land and forest resources.................	11,589	4,825	-41
Resource management and development support..................................	2,991	2,745	-8
Land Between The Lakes....................	6,860	7,160	+4
Total..............................	46,662	40,260	-14

Water resources activities follow 1984 priorities except within the regional water management subprogram where two new initiatives commence. The first will demonstrate conservation alternatives to expansion of overloaded sewage treatment plants. The second involves a non-point pollution control management demonstration in one tributary watershed.

Reservoir system operations activities are consistent with 1984 levels.

Land and forest resources activities' apparent decrease results from a one-time $7.4 million supplemental appropriation in 1984 to acquire recreation water releases into the Ocoee River below TVA's Ocoee No. 2 Dam, a single-purpose power dam.

Forestry activities will assist in establishing a forest resource institute focusing on computer assisted forest management.

The reduction in resource management and development support reflects the absence of funding to support acid rain studies.

Land Between The Lakes activities are largely consistent with 1984 levels adjusted for inflation.

Economic and Community Resources

TVA's economic and community resources program operates on the basic principle that a community must decide for itself what its development goals are, coupled with the principle that TVA's efforts are directed toward fostering greater self-reliance in implementing developmental objectives. TVA, principally through technical assistance, helps the community identify barriers to economic progress and prepare and implement strategies to overcome the barriers.

	In Thousands of Dollars		
	1984 Estimate	1985 Estimate	% Change
Capital investment			
Economic resources........................	2,819	-	-100
Community resources.......................	200	180	-10
Total................................	3,019	180	-94

The economic resources reduction is a result of completion in 1984 of improvements to Yellow Creek Port.

The community resources reduction is a reflection of less emphasis on floodplain management facilities as TVA's strategy to aid in reducing local flooding.

	In Thousands of Dollars		
	1984 Estimate	1985 Estimate	% Change
Operating expenses			
Economic resources........................	12,420	9,300	-25
Community resources.......................	4,905	5,300	+8
Total................................	17,325	14,600	-16

The decrease in economic resources results from the completion of special demonstration activities utilizing additional funding supplied by the Congress in 1984 for these purposes.

The increase in community resources activities reflects a greater commitment to assisting in the preparation of community local flood studies and a new initiative between TVA, local government, private industry, and the general public to identify an agreeable strategy to address hazardous waste management in the Valley region.

Agricultural Resources Development

TVA's role in upgrading agricultural efficiency, productivity, and income has been to introduce new technologies, including conservation, improved fertilizers, high-value crops, farm management systems, and marketing innovations. TVA's agricultural resources development program is founded on the concept of active cooperation among TVA, State land-grant universities, the U.S. Extension Service, and Valley farmers.

	In Thousands of Dollars		
	1984 Estimate	1985 Estimate	% Change
Operating expenses			
Total................................	5,305	5,525	+4

The increase in 1985 reflects continuation of a current services level of activities in the program.

National Fertilizer Development

The National Fertilizer Development Center's mission includes (1) developing better fertilizers, (2) creating more efficient ways to manufacture them, (3) finding ways to use fertilizers more effectively, and (4) making new technology available to the agriculture community.

	In Thousands of Dollars		
	1984 Estimate	1985 Estimate	% Change
Capital investment			
Chemical facilities.......................	6,902	5,954	-14
Ammonia from coal.........................	297	316	+6
Total..............................	7,199	6,270	-13

The decrease in funding for chemical facilities results from purchasing fewer railroad tank cars and a slowdown in the project for optimization of the ammonia plant. The increase in the ammonia-from-coal facilities budget represents the effects of inflation on capital spending which will be completed in fiscal year 1985.

	In Thousands of Dollars		
	1984 Estimate	1985 Estimate	% Change
Operating expenses			
Fertilizer R&D and introduction...........	26,047	27,528	+6
Ammonia-from-coal process.................	5,425	6,417	+18
Hardwood fuels research...................	4,789	5,560	+16
Total..............................	36,261	39,505	+9

Activities for fertilizer R&D and introduction in 1985 are consistent with those planned in 1984.

Developmental operation, including performance testing, for the ammonia-from-coal facility will be completed in 1985. TVA is actively pursuing support from others to do additional research and testing of the facility. This will conclude a three-year testing phase for the project.

Hardwood fuels research increases in fiscal year 1985 to provide for the continuation of the fabrication of a small laboratory research unit in order to validate results achieved to date in small batch equipment. Information for designing a continuous process will be developed. Such data will be required to entice industry to cooperate in development of a commercial-scale facility.

Power Supply and Use

The TVA power program is financed by revenues from the sale of power and proceeds from bonds secured by future revenues. TVA's borrowings are obligations of TVA's ratepayers, not the U.S. Government. The program serves an area with more than 7 million residential, commercial, and industrial consumers. All residential consumers and most of the others receive service from 160 municipal and cooperative distributors. TVA serves directly 46 large industrial customers and 10 major Federal facilities.

Estimates for 1985 for the power program are presented in a range. However, a single value was used in the Appendix to the Budget of the United States. This value was used to accommodate the reporting format required by the Office of Management and Budget. We have used this estimate for fiscal year 1985 for comparison purposes.

	In Thousands of Dollars		
	1984 Estimate	1985 Budget Appendix	% Change
Capital investment	1,343	1,332	-
Operating expenses	3,784	4,054	+7
Inventories, deferred charges, and investment funds	-216	-175	+19
Total	4,911	5,211	+6

Capital investment in new generating units and at other power facilities will continue in fiscal year 1985 at approximately the same rate as in fiscal year 1984. However, progress is still being made in completing TVA's nuclear units now under construction, with operation of Watts Bar unit 1 scheduled for 1984. (Both the 1984 and 1985 estimates for capital investments reflect the cancellation or deferral of eight nuclear generating units.)

Higher interest and fuel expenses as well as somewhat higher electric production are expected to result in a modest increase in power operating expenses.

The $40 million decrease in inventories, deferred charges, and investment funds in 1985 results mainly both from an expected decrease in coal inventories.

General Services

	In Thousands of Dollars		
	1984 Estimate	1985 Estimate	% Change
Capital investment			
General facilities........................	4,972	2,691	-46
Operating expenses			
General services..........................	630	650	3
Total..................................	5,602	3,341	-40

General facilities reflects reduced funding in 1985. This reduction is consistent with planned needs of general-use support equipment utilized in all TVA programs. Expenses planned for emergency preparedness and maintenance of bridges across five TVA dams are consistent with 1984 plans.

Budget Issues

Fiscal year 1985 proposed funding level

Deferred from fiscal year 1984	$9,192,000
1985 budget authority	115,308,000
Total	124,500,000

Fiscal year 1985 new initiatives

Dam safety improvements	$5,000,000

This program provides funds to implement recommendations arising out of TVA's inspection and reassessment of dams under the Federal Guidelines for Dam Safety. Modifications to Chatuge Dam (spillway modification and increasing dam height) and Cherokee Dam (wraparound embankment paving) will be performed in 1985.

Fiscal year 1985 anticipated rescissions and/or deferrals

TVA's fiscal year 1985 budget request contains no rescissions or deferrals. However, $9.2 million is proposed for deferral from 1984 into 1985. Of this amount $7.0 million will be used to complete the new lock at Pickwick Landing Dam and $2.2 million will be used to finance other 1985 program activities.

Economic assumptions and spendout rate

The economic assumptions for outyear planning of appropriations-financed activities were supplied by OMB. The data is as follows:

	1985	1986	1987	1988	1989
GNP deflator (percent)	4.9	4.6	4.3	4.0	3.7

TVA will generally utilize all funds in the fiscal year for which they were appropriated.

Outyear (fiscal year 1986 and beyond) program changes or funding levels

Outyear estimates for program expenses reflect no significant changes. However, in the 1986-1989 time period TVA will continue modifications to its multipurpose dams to meet current Federal Guidelines for Dam Safety, and possibly begin construction of an additional lock at another TVA multipurpose dam.

TVA estimates for budget authority for the 1986-1989 time period submitted to OMB are as follows:

	In Millions of Dollars			
	1986	1987	1988	1989
Budget authority	130.7	132.8	142.2	147.9

Personnel Data

	1984	1985
Total number of full-time permanent employees	16,140	15,800
Total full-time equivalent employment	35,500	36,000
Average grade, grades established by the Board of Directors	5.0	5.0
Average salary, grades established by the Board of Directors	$27,729	$29,116